













SIR N. N. SIRCAR.

# SIR N. N. SIRCAR'S SPEECHES AND PAMPHLETS

A COLLECTION OF THE PAMPHLETS CIRCULATED BY SIR N. N. SIRCAR IN 1933  
AMONG MEMBERS OF THE JOINT PARLIAMENTARY COMMITTEE ON INDIAN  
CONSTITUTIONAL REFORM AND AMONG MEMBERS OF PARLIAMENT,  
REPORTS OF THE CROSS-EXAMINATION OF SIR SAMUEL  
HOARE AND OTHERS BEFORE THE JOINT COMMITTEE,  
AND HIS SPEECHES BEFORE MEETINGS OF  
CONSERVATIVES IN LONDON.

EDITED BY  
B. N. DUTTA ROY, M.A., B.L.  
*Barrister-at-Law.*

THE BOOK COMPANY, LTD.  
4/3B, COLLEGE SQUARE  
CALCUTTA  
1934

*All rights including the right of translation reserved.*

## PREFACE

Clarity of thought, a keen, incisive intellect and a clear vision have ever distinguished Sir N. N. Sircar during his long career of phenomenal success at the Bar. These are the very qualities which he brought to bear upon his task as a delegate to the Joint Parliamentary Committee on Indian Constitutional Reform. His examination of the various witnesses who gave evidence before the Joint Committee at once shows his great forensic skill, his patriotic fervour, and his depth of feeling as the champion of his country's cause before an assembly of veteran statesmen. The speeches he made before assemblies in which Conservative members of Parliament were present, are invariably masterpieces of reasoning and eloquence. His political pamphlets all bear the impress of his analytical mind and show his remarkable manner of marshalling facts collected from official publications.

Many friends and admirers of Sir N. N. Sircar expressed to me their desire to see collected together in a more permanent form the various pamphlets which he circulated among Members of the Joint Committee and among Members of Parliament, full and adequate accounts of his cross-examination of Sir Samuel Hoare and other witnesses before the Committee, and the speeches he made from time to time for securing the whole of the export duty on jute for Bengal, for a revision of the Communal Award and the Poona Pact and for preserving the independence of the High Courts. It was to meet this desire and also to place before a wider public the interesting record of Sir N. N. Sircar's memorable work as a delegate to the Joint Committee that I embarked on the task which has resulted in the present publication.

Some of Sir N. N. Sircar's pamphlets, though necessarily overlapping one another, have been left untouched, and they are published in the following pages in exactly the same form

in which they were circulated to Members of the Select Committee, to delegates from India and the public. I have made use of the official reports for a correct reproduction of Sir N. N. Sircar's questions to witnesses before the Joint Committee and their answers.

After the announcement of Sir N. N. Sircar's appointment as a member of the Viceroy's Executive Council, I wrote a short account of his career at the request of Reuters. I reproduce it in this work by courtesy of Reuters.

B. N. DUTTA ROY.

BAR LIBRARY,  
CALCUTTA,  
*April 21, 1934.*

## SIR N. N. SIRCAR'S CAREER.

*By B. N. Dutta Roy.*

Sir Nripendra Nath Sircar, whose appointment as a Member of the Executive Council of the Viceroy was announced on December 19, 1933, is universally and deservedly considered the most consummate lawyer who has ever held office as Advocate-General of Bengal. He is a man of gigantic intellect, of wonderful quickness of perception, of unflinching tenacity of purpose and of unwearied industry. It is said of him that he can do in four hours what it takes any other man sixteen to do, and he works sixteen hours a day. He has a fierce regard for the sanctity of time.

Sir Nripendra Nath belongs to a family which distinguished itself in the service of the country in the latter part of the last century, being the grandson of the famous Peary Churn Sircar, who was one of the pioneers of English education in India, and the eldest son of Mr. Nagendra Nath Sircar, who was a well-known and popular executive officer in the employ of the Government of Bengal.

Born in 1876, Nripendra Nath received his early education in the Metropolitan School, Calcutta, of which he was a brilliant scholar. He then joined the Presidency College from where he graduated with Honours in Mathematics, Physics and Chemistry in 1894. Two years later he took his M.A. degree in Chemistry from the same institution. His career at college was as distinguished as at school, and during the few years he was at Presidency College he carried off many prizes, including the Foundation Scholarship of the institution.

After graduating in law from the Ripon College in 1897, Nripendra Nath joined the district court at Bhagalpur as pleader in the same year. In 1901 he was selected for the post of Professor of Chemistry at Agra College but he never joined the post. In 1902 he was appointed a member of the

Subordinate Judicial Service in Bengal. He soon discovered that there was not much scope for an ambitious lawyer in the post of a Subordinate Judicial Officer, and he resigned from the Judicial Service in 1905. The same year he proceeded to England and was admitted a student at Lincoln's Inn. During his stay in England he worked as a pupil in the Chambers of Mr. Cozens-Hardy, Q.C., where he made himself acquainted with various branches of English law and procedure. His application to severe study as a Bar student was crowned with brilliant success, and at the Bar Final Examination in Michaelmas Term, 1907, he topped the list of successful candidates and was the first Honoursman.

Nripendra Nath returned to India in 1907 and joined the High Court in Calcutta. For some time he worked in the Chambers of the late Sir Binode Mitter. He was soon recognised by the solicitors as a sound lawyer, briefs began to flow in, and within a short time after his enrolment he found himself heading along the primrose path of success. In a few years he built up a considerable practice both on the Original and Appellate Sides of the High Court and was well known for his erudition, his brilliant advocacy, his mordant wit and his tact and self-possession.

It was not long before N. N. Sircar was recognised as one of the leaders of the Bar. It is well known that he was offered a permanent Judgeship of the High Court in 1919 but that he declined the honour.

In 1928, when he was undoubtedly a consummate master of his profession, he was appointed Advocate-General of Bengal. The great ability with which he discharged the duties of this high office was recognised by the Government in 1931 when he was created a Knight.

— Sir Nripendra Nath has always taken a lively interest in the political affairs of his country, but he did not take an active part in politics except in 1921 and 1922 when he organised the Citizens' Protection League for counteracting the mass civil disobedience movement of Mr. Gandhi. He entered public

life in real earnest in 1932 when he was invited to participate in the deliberations of the Third Indian Round Table Conference as the representative of Bengal Hindus. His work at the Conference was considered so useful by Government that they nominated him a delegate to the Joint Parliamentary Committee on the Indian Constitution Act in 1933. Both as member of the Round Table Conference and as delegate to the Joint Parliamentary Committee Sir Nripendra Nath has proved himself a far-sighted statesman and has worked hard to secure better financial treatment for Bengal and to have the Communal Award, which has evoked a strong protest from the entire Hindu community, modified.

The public must remember Sir Nripendra's masterly cross-examination of Sir Samuel Hoare before the Joint Parliamentary Committee and the various political pamphlets he wrote and circulated among members of the Joint Parliamentary Committee and among members of Parliament. His industry in acquiring the knowledge that was necessary for his purpose was enormous. His pamphlets show his appetite for blue books, and it was an appetite which led him not merely to swallow but to digest and assimilate. Hence it is that he was a thorough master of all the facts collected from official publications which his pamphlets contained.

Sir Nripendra Nath married Nabanalini Basu, the only daughter of Mr. Durgadas Basu, a landowner of Baraset, in 1896 and has eight sons. Lady Sircar is keenly interested in Bengal's social welfare and education of women.

Both Sir Nripendra and Lady Sircar have travelled extensively in Palestine, Syria, Egypt, Europe, United States of America and Canada.





# CONTENTS

	Page
Preface . . . . .	i
Sir N. N. Sircar's Career . . . . .	iii

## PART I. THE PAMPHLETS.

Bengal under Communal Award and Poona Pact . . . . .	1
Is the Communal Decision a "Pledge"? . . . . .	51
Is the Communal Decision an Arbitral Award? . . . . .	57
Award and Pact: A Case for Reconsideration . . . . .	73
Truth about Poona Pact and How it affects Bengal . . . . .	77
Who are the Depressed Classes in Bengal? . . . . .	85
Allocation of Seats in Bengal Provincial Legislature . . . . .	93
A Note on Bengal Terrorism and Bengal Finances . . . . .	101
Reply to Mr. Ghuznavi . . . . .	111
The High Courts in India . . . . .	127
Population Ratios . . . . .	137

## PART II. CROSS-EXAMINATION OF WITNESSES.

European Association and the C. I. D. . . . .	143
Union of Britain and India's Proposals . . . . .	149
Jute Duty and Income-Tax: Bengal's Claim . . . . .	155
Governor's Powers . . . . .	163
Communal Decision and Sir Samuel Hoare . . . . .	171
Sir S. Hoare Cross-examined on Award and Pact . . . . .	175
Ministers' Salaries and Export Duty on Jute . . . . .	195
Examination of Mahasabha Witnesses . . . . .	201

	Page
Facts Relating to Poona Pact ... ..	209
Polling Machinery ... ..	217
Questions Relating to the High Courts ... ..	227

---

### PART III.

#### THE SPEECHES.

No Fear of Abdication By the British ... ..	241
Law and Order ; Minister will be a Glorified Secretary ... ..	247
Case for Transfer of Law and Order ... ..	251

### PART IV.

#### THE FINAL REPRESENTATIONS.

A "Temporary" Permanent Arrangement ... ..	259
Can His Majesty's Government be Coerced? ... ..	265
The Last Representation ... ..	269

---

# PART I

## THE PAMPHLETS



# **BENGAL UNDER COMMUNAL AWARD AND POONA PÁCT**



**Errata :**

**Page 16, line 22**—In place of the words “Or in other words”, read “In respect of 216 Communal seats”.

**Page 42, line 12**—Read “as” for “or”.





## INTRODUCTION.

Communal quarrels and jealousies have come to be the despair of Indians, and they are the most coveted assets for the die-hards in England, who are opposed to constitutional advance of India.

Communal quarrel held up all progress during the second Round Table Conference, and completely overshadowed all other questions. The facts which are set out in this pamphlet will show the history of the Communal Award, and how, with the best of intentions, the Premier has come to a decision, which, in fact, is unfair to Bengal Hindus.

It must be acknowledged, that whatever the defects of the Award may be, and whatever injustice it may have caused to some parties, yet but for some decision, no advance of any kind in constitutional discussions could have been achieved. Any attempt, at this stage, to reopen the whole communal question may throw into the melting pot, whatever has been so far achieved. It may be asked, what then is the object of discussing the Award? The answer is:—

- (1) To demonstrate how, *having regard to this Award, if the Poona Pact is allowed to stand*, the most influential community in Bengal will have little or no voice in the new Constitution, and that
- (2) The Poona Pact should not be allowed to affect the Communal Award, inasmuch as it does not comply with the conditions laid down in the Award, for its modification.
- (3) Without questioning, for the present, the allocations of seats to Europeans, Christians, Anglo-Indians, Labour, Landlords and other special constituencies, some partial and inadequate relief can be given to Bengal Hindus, by correcting what is an obvious error, in favour of Mahomedans—a correction which is not mixed up in any way, with the arrangements in the other provinces.

If the claim of Bengal Hindus for more equitable treatment is just, this very fact should be a strong reason, for providing in the constitution, fairly elastic provisions for subsequent modification, with Parliamentary sanction or otherwise.

If the conditions introduced for alteration at subsequent times are too stringent, the injustice operating on Bengal Hindus will be perpetuated, and will for ever prevent the securing of an atmosphere in which the new constitution will have fair conditions for working smoothly.

The Award provides that—"Provision will be made in the Constitution itself to empower a revision of this electoral arrangement, *after ten years with the assent* of the Communities affected, for ascertainment of which suitable means will be devised."

If a community, whether Hindu, Mahomedan, or any other, has obtained too advantageous an Award, why should it "assent" to its modification?

The original Award is a decision, consequent on the parties failing to agree. The history of the Award, hereafter narrated, and the subsequent abortive attempts for amicable settlement, all make it but too apparent, that "assent" is not to be expected.

It may be legitimately asked, if the original decision is not based on "assent" and has its origin in dissensions, why should its modification depend on assent?

His Majesty's Government has often got to decide where parties are unable to agree. As examples, reference may be made to the fact, that there was no agreement on the number of seats in the Legislature, on the basis of franchise, on joint and separate electorates, on many matters relating to Federal Finance ; but has such lack of "assent" stood in the way of decisions on these matters? Conversely, His Majesty's Government has not been always prepared to concede, whatever has been "assented" to by all parties.

Why then this insistence on assent of parties, in case of modification of the Award?

An idea of what may be done to perpetuate the Award may be gathered from the fact that at the third R.T.C. the spokesman of the Mahomedan delegation insisted on a note being taken, exactly as dictated by him "So that there may be no misunderstanding as to Muslim opinion." The purport of this dictated note is, that there will be no change in the Communal Award, unless such change is required by a three-fourths majority, which will include at least three-fourths of the Mahomedans.

This is a roundabout way of saying that the Award is not to be modified at all—and there is little doubt that efforts will be made on similar lines to perpetuate the position created by the Award.

As regards the Depressed Classes, it may be equally inexpedient to raise, at this stage, general questions relating to them, and thus intensify that bitterness which, thanks to the Temple entry question, has divided the already disunited Hindus into two warring camps.

The Poona Pact, however, does not comply with the conditions, under which alone, the Premier's Award can be modified—and that Award should be allowed to remain unaffected by it.

Supporters of the Poona Pact have always claimed for it binding character, on the acquiescence of Bengal Hindus—their "default" in not protesting for some time.

At the eleventh hour, a very feeble suggestion has been made that Bengal Hindus assented to the Pact. The very statement of this case shows its unreality—and in any case whether Bengal Hindus assented or not is a question of fact, which it will not be difficult for His Majesty's Government to ascertain. This enquiry cannot take any considerable time, and if it does, "Wretches hang that Jurymen may dine"—should not be the working maxim, when the interest of the most influential Community in Bengal is concerned—and if their fate depends on the ascertainment of a fact—the same cannot be shirked.

That the case against Bengal Hindus is based on default will appear from the telegrams set out in the letter from the writer to the Prime Minister, a copy of which is printed as Appendix A.

Even during discussions in Bengal Council in the middle of March, 1933, the representatives of Depressed Classes never suggested any assent, on the part of Bengal Hindus, and accepted the statement of the mover of the resolution, Mr. J. L. Banerjee, to the contrary.

It is now said that one Mr. Satish Das Gupta was sent by the Congress to represent Bengal Hindus. That he was not present at the time of the Pact, and that he did not go to Poona, are admitted by him; he is supposed to have authorised somebody else—a non-Bengali belonging to the Congress—to deal with the question. There was no meeting of the Bengal Congress Committee to authorise him. If he had been authorised by any War Council, declared illegal by Government, it is a travesty of reason to suggest that Congress, which has throughout ignored and non-co-operated with the proposed Reforms, should be thought of as the agency which did or could bind Bengal Hindus to the Poona Pact.

An inference of agreement, drawn from want of protest for some time, can not comply with the conditions laid down in the Award for its modification.

Whatever acquiescence there has been, the same was the result of threat of Mahatma Gandhi's fast. The fact that according to Mahatma, his "Fast unto death" was not meant as intimidation is immaterial, as the fact remains that, whether intended or not, it operated as very effective coercion on Bengal Hindus.

The question relating to Depressed Classes has been artificially exaggerated into a size out of all proportion to its reality. However that may be, there is no bar to the Pact holding good in other Provinces, because it is inapplicable to Bengal Hindus by reason of their want of "assent."

The Communal Award does not proceed on the footing of treating India as a whole, and in fact para. 4 of the Award, which deals with the future modification of the Award, contemplates "alteration" either in the whole of British India, or in respect of any one or more of Governors' Provinces.

## HISTORY OF THE COMMUNAL AWARD.

Before considering the Communal decision of the Premier and its effect, it is necessary to state shortly the facts leading to it.

In connection with the first R.T.C., the Minorities Sub-Committee made a report which was approved by the Committee of the whole Conference on 19th January, 1931.

The following opinion was recorded unanimously :—

“That in order to secure the co-operation of all communities which is essential to the successful working of responsible government in India, it was necessary, that the new constitution should contain provisions designed to assure the communities that their interests would not be prejudiced, and that it was particularly desirable that some agreement should be come to, between the major communities, in order to facilitate the consideration of the whole question.”

In these circumstances, it recommended that “the Conference should register an opinion that it was desirable that an agreement upon the claims made to it, should be reached, and that the negotiations should be continued, between the representatives concerned, with the request, that the result of their efforts should be reported, to those engaged in the next stage of these negotiations.”

During the deliberations of the second R.T.C. a Minority Committee was appointed, consisting of 51 members—including Mahatma Gandhi, Mrs. Naidu, Pandit Malaviya, Dr. Moonje, Sir Sultan Ahmed, Sir P. C. Mitter, Mr. Srinivasa Sastri, Mr. G. D. Birla, Sir Sayed Ali Imam, Mrs. Subbarayan and others.

The Committee on 28th September, 1931, reported that informal proceedings were going on ; and it was adjourned to 1st October, to enable negotiators to come to an agreement.

The writer was not a delegate to the second R.T.C. but was in London throughout September, October and part of November, 1931. He is well aware of, and was in touch with, the protracted negotiations going on. Meetings of the negotiators at the Ritz Hotel where H. H. the Aga Khan was residing, and where Mahatma would be often attending, as also at other places, were taking place almost daily.

No agreement was arrived at between 28th September and 1st October, and on the latter date Mahatma Gandhi moved for adjournment till 8th October. Endless informal discussions between various persons, including Mahatma Gandhi, were continued between the 1st and 8th October.

On 8th October, Mahatma Gandhi reported that "negotiations which had taken place had unfortunately proved entirely 'abortive.'" On this date the meeting was adjourned and there was no further meeting till 13th November; but hours were spent daily during the intervening period over negotiations. At the meeting of 8th October, a scheme prepared by the Indian National Congress for the solution of the communal problem was referred to by Mahatma Gandhi, and this was circulated at his instance. Even the Hindus were not agreeable to accept this scheme; and the Hindus never succeeded in having an agreed scheme of their own. Memoranda by Dr. Moonje, Raja, Narendra Nath and others, were circulated, and the situation was one of complete impasse. The Mahomedans were united, and in the discussions a single spokesman would speak for the community.

The attempt to find a common formula for the whole of India, while every Province has its own problems, was another factor which led to the failure of the negotiations. Surprising as it may seem, for many of the informal conferences no notices were given to the Hindu representatives of the Punjab and Bengal.

At the plenary meeting of 30th November, 1931, Mahatma Gandhi said—"And that mention of the 'Mussulman' brings me to the baffling problem of minorities. Believe me, that problem exists here, and I repeat what I used to say in India. I have not forgotten those words—that without the problem of minorities

being solved, there is no Swaraj for India, there is no freedom for India."

When concluding the second R. T. Conference, the Prime Minister warned the parties of the consequences of failure to come to an amicable agreement. He said :—

"We must all, however, realise that there stands in the way of progress, whether for the Provinces or the Centre, that formidable obstacle, the communal deadlock. I have never concealed from you my conviction that this is, above all others, a problem for you to settle by agreement amongst yourselves. The first of the privileges and the burdens of a self-governing people, is to agree how the democratic principle of representation is to be applied—or, in other words, who are to be represented and how it is to be done. This Conference has twice essayed this task ; twice it has failed. I cannot believe that you will demand that we shall accept these failures as final and conclusive.

"But time presses. We shall soon find, that our endeavours to proceed with our plans are held up (indeed they have been held up already) if you cannot present us with a settlement acceptable to all parties, as the foundations upon which to build. *In that event His Majesty's Government would be compelled to apply a provisional scheme*, for they are determined that even this disability shall not be permitted to be a bar to progress. This would mean that His Majesty's Government would have to settle for you, not only your problems of representation, but also to decide as wisely and justly as possible, what checks and balances the constitution is to contain, to protect minorities from an unrestricted and tyrannical use of the democratic principle expressing itself solely through majority power. *I desire to warn you, that if the Government have to supply, even temporarily, this part of your constitution which you are unable to supply for yourselves, and though it will be our care to provide the most ample safeguards for minorities, so that none of them need feel that they have been neglected, it will not be a satisfactory way of dealing with this problem.* Let me also warn you that if you cannot come to an agreement on this amongst yourselves, it will add considerably to the difficulties of any



Government here, which shares our views of an Indian Constitution, and it will detract from the place which that Constitution will occupy amongst those of other nations. I therefore beg of you once more to take further opportunities to meet together and present us with an agreement."

This warning, however, was of no avail ; and ultimately the Communal decision or Award was made by the Prime Minister, dated August, 1932.

In the intervening period, *i.e.*, from 1st December, 1931 to about August, 1932, all attempts made in India for agreement hopelessly failed.

Since the publication of the Award, attempts at settlement through a Unity Conference were seriously made. Immediately before the sitting of the third Round Table Conference, telegrams were published in London, stating that the parties had arrived at an agreement—but subsequent events did not justify these statements—and the position is that parties are yet unable to compose their differences, and a deadlock has been prevented by the Communal Award.

The results of the Premier's Communal Award will be found summarised in the statements on pages 9 to 13.

# Result of the Communal Award in the Major Provinces and C. P.

Serial Number	Community and Province	Population of the Community divided by Total Population of the Province	Percentage	Seats allotted to the Community divided by Total Seats in Provincial Legislature (including Special Seats)	Percentage	Seats allotted to the Community divided by Total Seats in Provincial Legislature (excluding Special Seats)	Percentage
1	2	3	4	5	6	7	8
1	Christians in Bengal	180,299 50,114,002	or 0'36%	17 250	or 6'8%	17 216	or 7'9%
2	Christians in U. P.	205,006 48,908,763	or 0'42%	5 228	or 2'2%	5 215	or 2'3%
3	Christians in Bihar & Orissa	341,894 37,677,576	or 0'90%	5+2 (a) 175	or 4'0%	5+2 (a) 161	or 4'3%
4	Christians in Bombay Proper	299,664 17,916,318	or 1'67%	8 175	or 4'6%	8 158	or 5'1%
5	Christians in the Punjab	414,788 23,580,852	or 1'76%	4 175	or 2'3%	4 165	or 2'4%
6	Christians in Madras	1,774,276 46,740,107	or 3'8%	14 215	or 6'5%	14 196	or 7'1%
7	Mahomedans in C. P.	682,854 15,507,723	or 4'4%	14 112	or 12'5%	14 104	or 13'5%

(a) At least 2 out of the 8 seats allotted to Backward Tracts in Bihar and Orissa are likely to be secured by Christians

# Result of the Communal Award in the Major Provinces and C. P.—Contd.

Serial Number	Community and Province	Population of the Community divided by Total Population of the Province	Percentage and	Seats allotted to the Community divided by Total Seats in Provincial Legislature (including Special Seats)	Percentage and	Seats allotted to the Community divided by Total Seats in Provincial Legislature (excluding Special Seats)
1	2	3		4		5
8	Tribal Religions in Bihar & Orissa	2,048,809 37,677,576	or 5.46%	8-2 (b) 175	or 3.4%	8-2 (b) or 3.7% 161
9	Mahomedans in Madras	3,305,937 46,740,107	or 7.1%	29 215	or 13.3%	29 or 14.8% 196
10	Mahomedans in Bombay Proper	1,588,259 17,916,318	or 8.8%	30 175	or 17.1%	30 or 19.0% 138
11	Mahomedans in Bihar and Orissa	4,264,790 37,677,576	or 11.3%	42 175	or 24.0%	42 or 26.1% 161
12	Sikhs in the Punjab	3,066,144 23,580,852	or 13.0%	32 175	or 18.3%	32 or 19.4% 163
13	Mahomedans in the United Provinces	7,181,927 43,408,763	or 14.0%	66 228	or 29.0%	66 or 30.7% 215
14	General in the Punjab	6,328,588(c) + 35,284(d) + 399,307(e) + 5,723(f) + 546(g) + 12(h) 28,580,832	or 28.3%	43 175	or 24.6%	43 or 26.7% 165

15	General in Bengal	$\frac{21,570,497(c) + 1,520(p) + 316,031(f) + 528,037(a) + 9,167(d) + 7,320(j) + 1,730(e) + 1,867(h)}{50,114,002}$	$\frac{80}{250}$	$\frac{32.0\%}{216}$	$\frac{80}{216}$	$\frac{37.0\%}{216}$
16	Mahomedans in Bengal	$\frac{27,497,624}{50,114,002}$	$\frac{119}{250}$	$\frac{47.6\%}{216}$	$\frac{119}{216}$	$\frac{55.1\%}{216}$
• 17	Mahomedans in the Punjab	$\frac{13,332,460}{23,580,852}$	$\frac{86}{175}$	$\frac{49.1\%}{165}$	$\frac{86}{165}$	$\frac{52.1\%}{165}$
18	General in Bihar & Orissa	$\frac{31,011,474(c) + 5,653(j) + 8,784(d) + 919(f) + 241(g) + 24(h) + 38(e)}{37,677,576}$	$\frac{99+7(l)}{175}$	$\frac{60.6\%}{161}$	$\frac{99+7(l)}{161}$	$\frac{65.8\%}{161}$
19	General in United Provinces	$\frac{40,905,586(c) + 66(h) + 46,500(j) + 67,954(d) + 730(f) + 991(g)}{48,408,763}$	$\frac{182+12(l)}{228}$	$\frac{68.2\%}{215}$	$\frac{182+12(l)}{215}$	$\frac{67.0\%}{215}$

(b) Vide explanation (a) above.

(c) Hindus ; (d) Jains ; (e) Minor Religions ; (f) Buddhists ; (g) Zoroastrians ; (h) Jews ; (i) Tribal Religions ; (j) Sikhs

(l) Special Seats for Depressed Classes.

# Result of the Communal Award in the Major Provinces and C. P.—Conclud.

Serial Number	Community and Province	Population of the Community divided by Total Population of the Province		Percentage and		Seats allotted to the Community divided by Total Seats in Provincial Legislature (including Special Seats)		Percentage and		Seats allotted to the Community divided by Total Seats in Provincial Legislature (excluding Special Seats)	
20	General in Madras	41,277,370(c) + 129(e) +									
		348,673(i) + 31,206(d) +									
		537(j) + 1,359(f) +									
		507(g) + 23(h)		or 89.0%		134 + 18(l)		or 71.2%		134 + 18(l)	
		46,740,107				+ 1(m)				+ 1(m)	
						215				196	
21	General in Bombay Proper ...	15,602,982(c) + 171(e) +									
		198,670(d) + 128,931(i) +									
		85,662(g) + 12,603(h) +									
		2,378(j) + 2,048(f)		or 89.5%		109 + 10(l)				109 + 10(l)	
		17,916,318				+ 1(m)				+ 1(m)	
						175				158	
22	General in Central Provinces	18,338,223(c) + 153(h) +									
		1,351,615(i) + 77,895(d) +									
		50,564(k) + 2,092(g) +									
		4,241(j) + 66(f)		or 95.6%		77 + 10(l)				77 + 10(l)	
		15,507,723				+ 1(m)				+ 1(m)	
						112				104	

- (c) Hindus; (d) Jains; (e) Minor Religions; (f) Buddhists; (g) Zoroastrians; (h) Jews; (i) Tribal Religions; (j) Sikhs.  
 (k) Indian Christians included in "General" in the Central Provinces.  
 (l) Special Seats for Depressed Classes.  
 (m) Special Seats for Backward Tracts.

# POSITION OF MAHOMEDANS AND HINDUS (Bengal-treated Separately)

Province	MAHOMEDANS			HINDUS ('General', practically Hindus)				
	Percentage of Population	Percentage of Total Seats	Percentage of Seats excluding Special Seats	Excess or Deficit	Percentage of Population	Percentage of Total Seats	Percentage of Seats excluding special Seats	Excess or Deficit
C. P.	4.4	12.5	13.5	+9.1	95.6	78.6	84.6	-11.0
Madras	7.1	13.5	14.8	+7.7	89.0	71.2	78.1	-10.9
Bombay Proper	8.8	17.1	19.0	+10.2	89.5	68.6	75.9	-13.6
Bihar & Orissa	11.3	24.0	26.1	+14.8	82.3	60.6	65.8	-16.5
Punjab	56.5	49.1	52.1	-4.4	28.3	24.6	26.7	-1.6

[Note (1)—The deficit of Mahomedans in the Punjab to the extent of 4.4 p. c. is due to the weightage of 6.4 p. c. given to the Sikhs.]

[Note (2)—Weightage given to the Mahomedans is 108 p. c. in Madras, 117 p. c. in Bombay, 180 p. c. in Bihar and Orissa and 200 p. c. in C.P.]

## ALLOCATION OF SEATS IN BENGAL.

Out of the total of 250 Seats, 2 are kept for Indian Christians, 4 for Anglo-Indians, 11 for Europeans, 19 for Commerce, Industry, Mining and Planting (out of which 14 are for Europeans), 5 for Landlords, 2 for Universities, 8 for Labour. In respect of these 51 seats, 31 are not available to Hindus or Mahomedans, and Europeans are given 11 plus 14 *i.e.* 25 seats out of 250, the total.

Provision of as many as 31 seats for Christians who form only 0.36 per cent. of the population and are, on basis of population alone, entitled to one seat only, make it impossible for Hindus and Mahomedans to get the percentage to which they may feel themselves entitled. Obviously the excess of 30 seats given to Christians must come from out of the Hindu and Mahomedan seats.

Of the 34 non-communal seats (*viz.* 19 for Commerce &c., 8 for Labour, 5 for Landlords and 2 for Universities) as many as 14 are, as noted above, reserved for Europeans, leaving only 20 to be fought out between the others.

Assuming that none of these 20 seats are captured by Europeans or Anglo-Indians or Indian Christians, a reasonable estimate will be:—

5 Landlord seats will go to	4 Hindus : 1 Mahomedan.
2 University seats will go to	2 Hindus :
8 Labour seats will go to	2 Hindus : 6 Mahomedans.
5 Seats for Commerce and Industry will go to	3 Hindus : 2 Mahomedans.

11 Hindus : 9 Mahomedans.

*Note* :—"Hindus" in the above statement and in following lines includes also "Others."

A difference of one or two, for or against Mahomedans, or Hindus, can make no difference in the result, when the total number out of which one Community can secure an excess over the other is only 20.

Consequently Mahomedans get 119 plus 9 seats = 128 seats.

Hindus get 80 plus 11 seats = 91 seats.

If this total, 219 (*i.e.*, a total of 250 seats minus 31 seats for Europeans, Christians, etc.), is now divided on population basis the result will be—

On the basis of total population :—

121 Mahomedans : 98 Hindus.

On the basis of adult population :—

113 Mahomedans : 106 Hindus.

Thus on the total population basis, the Mahomedan excess over Hindu seats ought to be 23 and on the adult population basis it should be 7 only.

They have been given an excess of 39 seats.

Comment is unnecessary ; facts speak for themselves. The more reasonable way of looking at the matter is, that by reason of 51 special seats being carved out of 250 (of which 31 cannot be touched by Hindus or Mahomedans) only 199 seats are available for Hindus and Mahomedans.

If the 199 seats are divided on population basis the result will be :—

On the basis of total population :—

Mahomedans 110 : Hindus 89.

On the basis of adult population :—

Mahomedans 102 : Hindus 97.

In the first case the Mahomedan excess ought to be 21, and in the second such excess should be 5 only.

The awarded excess is 39. Again comment is unnecessary.

The following propositions emerge from the above-mentioned facts :—

- (1) In the case of Europeans, on population basis they should get 1 seat.

They have, however, got 25, no doubt on account of their position, education, interest in trade, etc.

- (2) All such factors have been ignored in the case of Hindus. As between Hindus and Mahomedans, a different principle is applied, *viz.*, counting of



heads—but even on this basis Hindus have got much less than their proper quota.

- (3) As between Hindus and Mahomedans, if only the principle of counting heads is to be followed, Mahomedans should have an excess of 21 seats on total population basis, (heads of babies being included in the counting) and they should have an excess of either 7 or 5, if only heads of Adults are counted, whereas they have been awarded an excess of 39 seats.
- (4) The special seats, including 31 seats for Europeans, Anglo-Indians, and Indian Christians, have been carved out of the share of the Hindus.

Again comment is unnecessary.

- (5) Christians have been allowed 31 seats while they should get one, their percentage of total population being 0.4.

To allow extra seats being given to Christians, Hindus (and others) give up 21 seats out of 112 or 18.8 per cent. Mahomedans give up nine seats out of 137 or 6.6 per cent.

Or in other words, Muslims with their percentage (total population) of 54.8 get 55.1 per cent. while "General" i.e. Hindus and others with its percentage of 44.8 gets 37, i.e. 7.8 less than its share, provision being made for 31 Christian seats.

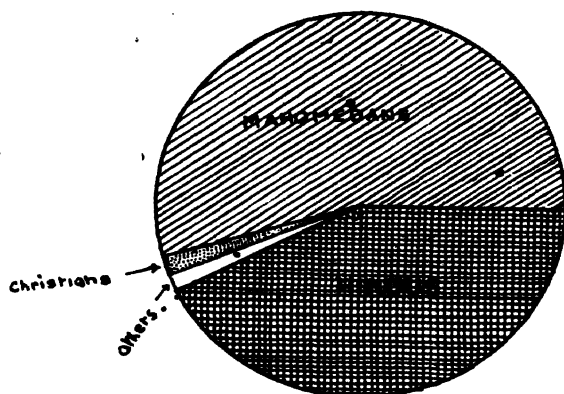
The Mahomedans have not to give up a single seat; whatever is necessary for permitting extra seats to be given to Christians has been met entirely from the share of the Hindus.

The diagrams on the following pages comparing the respective positions of Hindus, Mahomedans and others in different walks in life in Bengal will be interesting in this connection. The diagrams relating to Employment in Banks, &c., the Medical and Legal Professions and Employment in Agriculture are based on the Census figures for 1921, as only very incomplete Occupation Tables were compiled for the Census of 1931; all the other diagrams are based on figures for 1931.

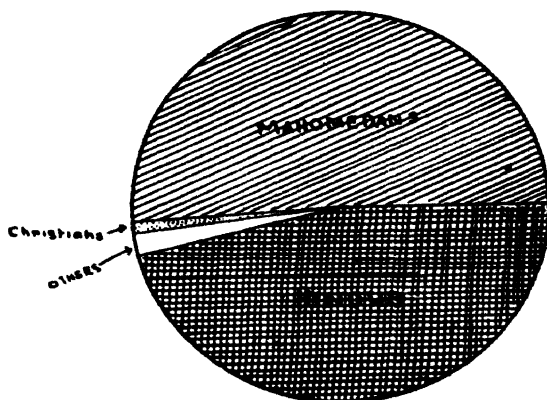
## RESPECTIVE POSITIONS OF MAHOMEDANS AND HINDUS IN BENGAL.

*Total Population :*

	per cent.
Mahomedans	54.8
Hindus	... 43.1
Christians	... 0.4
Others	... 1.7

*Adult Population.*

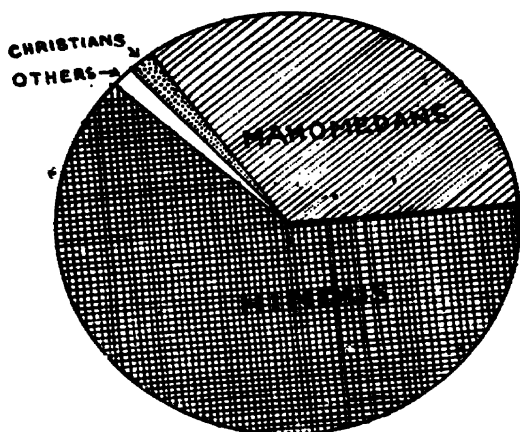
	per cent.
Mahomedans	51.3
Hindus	... 46.6
Christians	... 0.4
Others	... 1.7



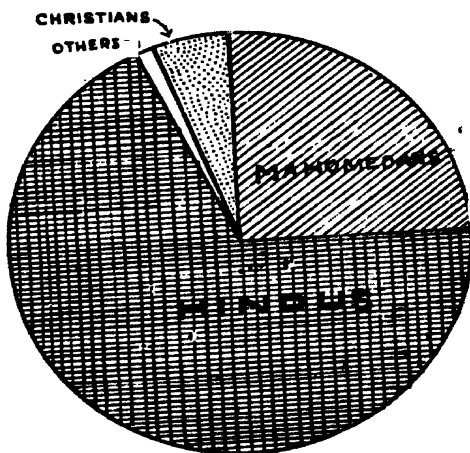
(Note.—Figures classified according to age are given in the Census, as below 20, 25, etc. In calculating Adults the number for persons below 20 has been omitted.)

*Literacy.*

	per cent.
Mahomedans	83.5
Hindus	... 64.2
Christians	... 1.5
Others	... 0.8

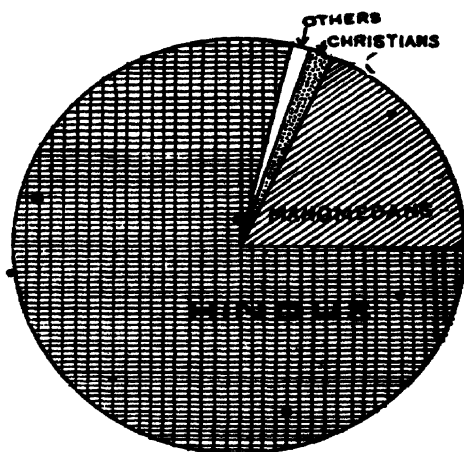
*Literacy in English (both sexes).*

	per cent.
Mahomedans	24.9
Hindus	... 69.6
Christians	.. 4.9
Others	... 0.6



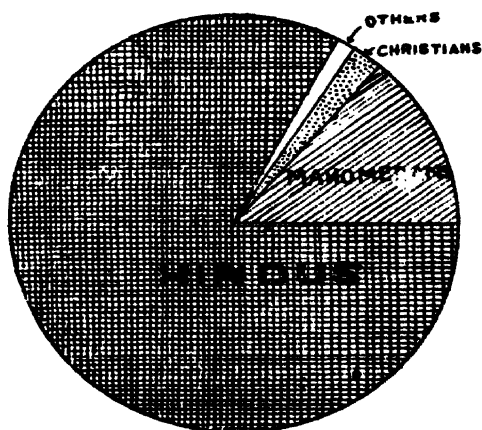
*Students in High Schools (both sexes).*

	per cent.
Mahomedans	17.9
Hindus	79.6
Christians	1.8
Others	0.7



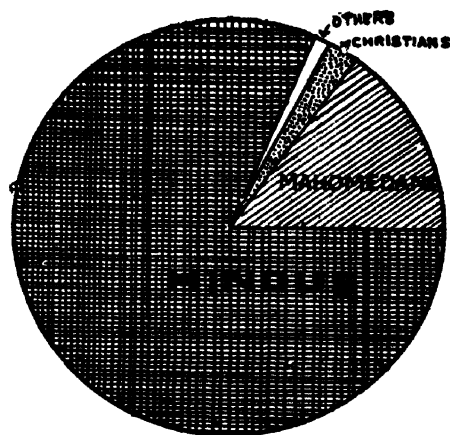
*Students in Intermediate Colleges.*

	per cent.
Mahomedans	13.6
Hindus	83.6
Christians	2.2
Others	0.6

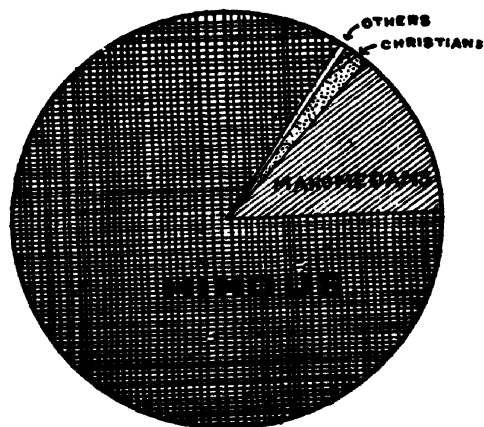


*Students in Degree Classes.*

	per cent.
Mahomedans	14.2
Hindus	... 82.8
Christians	... 2.2
Others	... 0.8

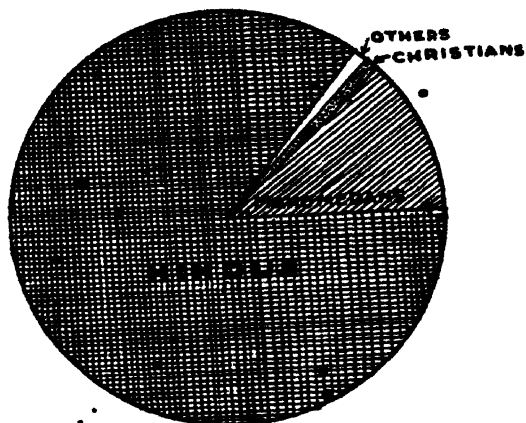
*Post-Graduate and Research Students.*

	per cent.
Mahomedans	13.0
Hindus	... 85.7
Christians	... 1.2
Others	... 0.1

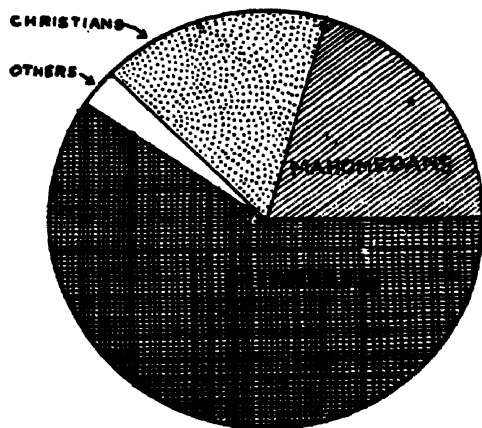


*Medical Schools.*

	per cent.
Mahomedans	12.1
Hindus	86.2
Christians	0.8
Others	0.9

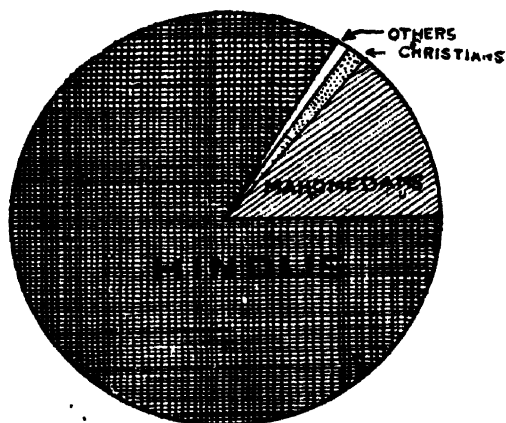
*Technical and Industrial Schools.*

	per cent.
Mahomedans	19.9
Hindus	61.3
Christians	15.7
Others	3.1

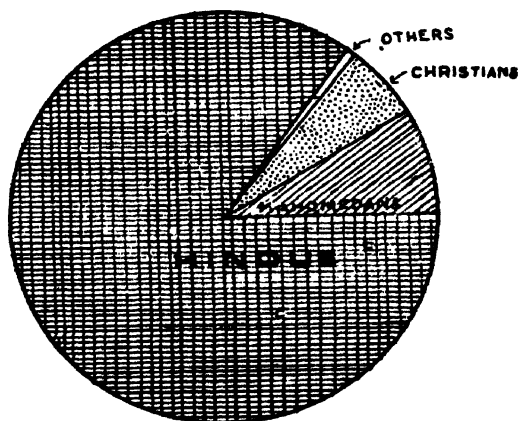


*Engineering and Survey Schools.*

	per cent.
Mahomedans	13.0
Hindus	... 85.5
Christians	... 0.6
Others	... 0.9

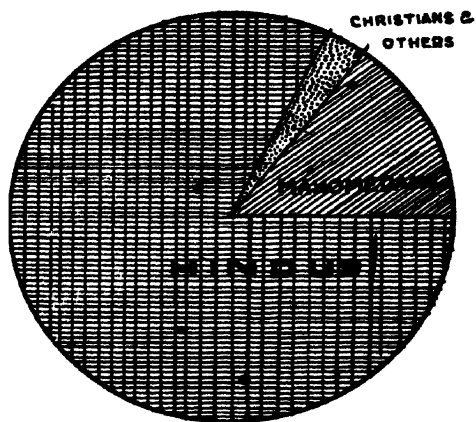
*Commercial Schools.*

	per cent.
Mahomedans	7.8
Hindus	... 86.0
Christians	... 6.0
Others	... 0.2



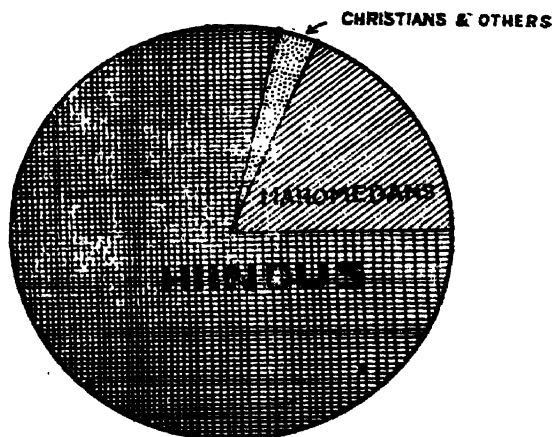
*Employed in Banks, Exchange, Insurance, etc.*

	per cent.
Mahomedans	14.9
Hindus	... 83.0
Christians & Others	... 2.1



*Medical Profession.*

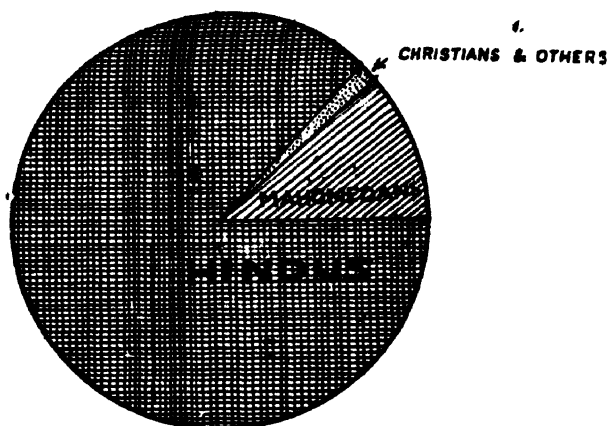
	per cent.
Mahomedans	17.0
Hindus	... 79.7
Christians & Others	... 2.4



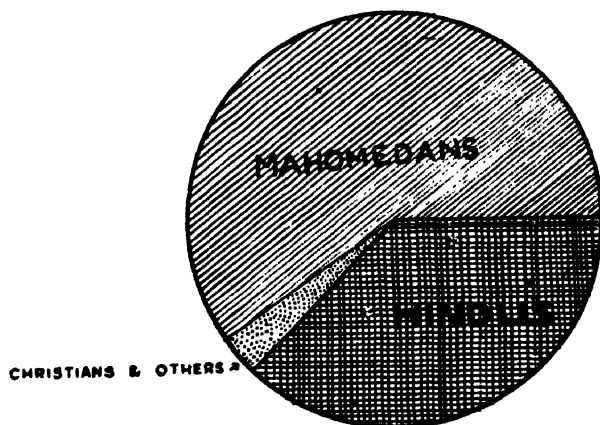


*Legal Profession.*

	per cent.
Mahomedans	11.6
Hindus	87.6
Christians & Others	0.8

*Employed in Agriculture.*

	per cent.
Mahomedans	62.7
Hindus	34.7
Christians & Others	2.6



*Beggars and Vagrants.*

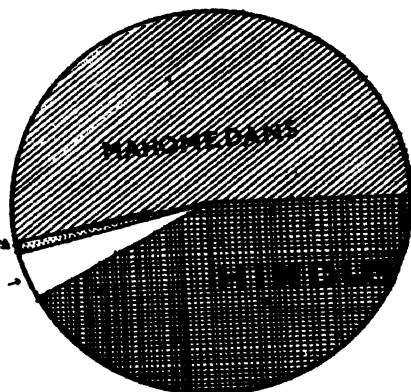
	per cent.
Mahomedans	52.7
Hindus	46.7
Christians & Others	0.6

CHRISTIANS &  
OTHERS

*Jail Population.*

	per cent.
Mahomedans	53.1
Hindus	42.7
Christians	0.4
Others	3.8

CHRISTIANS  
OTHERS



These figures are based on those in the Annual Report on the Administration of Jails in the Presidency of Bengal for the year 1931. It was a somewhat unusual year for the Hindu population in jails on account of the Civil Disobedience movement, in which Hindus chiefly participated.

## CONTRIBUTION TO PROVINCIAL REVENUE.

The exact quota are difficult to ascertain, but it is not difficult to form a fairly accurate estimate. Taking the figures for 1927-28, it will be found that Rs. 10 Crores 73 Lakhs odd, is the gross income of the Province.

Out of this, Rs. 9 crores 91 lakhs odd is derived from the principal heads, *viz.*, Land revenue, Excise, Stamps, Forest, Registration and Scheduled taxes.

Excise Revenue was Rs. 23,07,500 and Land Revenue Rs. 3,14,62,000.

The contribution of Mahomedans to Excise revenue is negligible.

In Land Revenue, while the direct payment is overwhelmingly from Hindus, Mahomedans contribute indirectly as tenants.

Here again Mahomedans vastly preponderate in East Bengal, but Land Revenue and rate of rent are higher in West Bengal.

Thus the highest Land Revenue is for Burdwan and the lowest is for Chittagong.

Judicial Stamps yielded Rs. 2 Crores 21 Lakhs. In Bengal 54 per cent. of litigation consists of rent suits, and about 37 per cent. of money suits, and an overwhelmingly large proportion of Court fees is paid by Hindus.

Some writers in the *Modern Review* have entered into details, and considered the figures for payment of Cess, etc., and have arrived at the conclusion, that the Mahomedans contribute about 15 per cent. only of the Provincial Revenue. As there is some margin of error in these calculations, an estimate of 20 per cent. will err on the side of generosity to Mahomedans.

If for the sake of peace, and of avoiding the ripping up of the Communal Award, generally, the numbers of seats for Christians, Anglo-Indians, and all other special constituencies are not disturbed, there can be no difficulty in dividing the seats

on the basis of the highest claim which can be made for Mahomedans, *i.e.*—

(i) On the basis of counting heads including the heads of infants and—

(ii) Paying no attention in case of Hindus to any of the factors which justify giving seats to Christians on a basis other than that of counting heads.

Accepting every contention which can be legitimately put forward the Mahomedan seats should be reduced by at least 7.

As the seats should be on the basis of adult population, the Muslim seats should be reduced by 15.

### THE POONA PACT.

Out of the 80 seats for Hindus and others, 30 will be allowed to the Depressed Classes as the result of the Pact. This leaves 50 seats.

In addition to 30 reserved seats, the Depressed Classes will gain some seats in certain districts, by reason of their overwhelming number.

The net result is that the most advanced community in Bengal, from the point of view of education, influence and all other considerations which apparently have been considered in the case of Europeans and Anglo-Indians in Bengal—the community which contributes at least four-fifths of the Provincial Revenue, can expect no more than 40 or 45 seats in a House of 250, and this situation is intended to be perpetuated by making modification dependent on “assent” of Mahomedans and the Depressed Classes. Having regard to what the Communal Award has done, such “assent” can never be expected.

What part can Bengal Hindus expect to play in the proposed Constitution? It is not at all probable that the Mahomedans and the Depressed Classes will go out of their way to give up anything for the sake of allowing a more equitable treatment of the Hindus in Bengal. If they do, an agreement becomes immediately possible.

The Bengal Hindus are thus faced with the prospect of not having any controlling voice in the new Constitution not only when it is introduced, but always and for all time.

## THE CONCLUSIVENESS OF THE COMMUNAL AWARD.

The Award was an inevitable necessity for removing the communal deadlock, which had been blocking progress at the second R. T. C. The Prime Minister gave repeated warnings that if parties failed to agree, he would have to decide because even the communal deadlock could not be allowed to stand in the way of the R. T. C. proceeding with its deliberations for making its report.

The Prime Minister warned the parties that his own decision might not be satisfactory.

We know that the parties could not agree. Without trying to apportion blame between the different Communities, it may be pointed out that, if only one of the parties was unreasonable and extravagant in its demands, no agreement could be possible ; and if all the parties were more or less unreasonable, the result would be doubly sure.

For purposes of the final report of the R. T. C., the Communal Award has been taken as conclusive, in all subsequent stages of its deliberations.

The R. T. C. has made its report.

That report enables His Majesty's Government to decide what proposals would be embodied in the "White Paper." The character of the agreements at the Round Table Conferences is shown by the following extract from the second Report of the Federal Structure Committee :—

"It must be clearly understood that though agreement has been reached by a majority, on many important matters, such agreement is only provisional."

and every member followed the example of Lord Reading who said :

“Understanding has been from the outset, that it would  
 “be open to all members, when they come to consider  
 “the complete proposals for the Federal Constitution  
 “to modify or change any provisional assent they  
 “might have hitherto given.”

So far as Parliament is concerned, its hands are free. It is not committed to the allocation of Provincial Seats proposed in the “White Paper”—or to any other proposal contained in it.

The proposal about Provincial Seats based on the Award, is not more sacrosanct than any other proposal in the “White Paper”—though it will be inexpedient for any Community to enter into protracted wrangling, because a meticulous examination of the situation may end in its gain of a few seats.

If Bengal Caste Hindus can establish that the proposal is to give them less than two-thirds of the seats, which should come to them in any event,—they cannot allow their political future to be throttled, if not extinguished, by the proposals contained in the ‘White Paper.’

For the sake of peace, for shortening enquiry, and for averting more disturbance of the proposals than is absolutely necessary for their self-preservation, the Bengal Hindus should be prepared :—

- (a) Not to raise any question about the seats proposed for Europeans, Anglo-Indians, Labour, Commerce or any other constituency.
- (b) To raise as against Mahomedans, no question about the weightage they have received in other Provinces. The sole prayer is that the seats available to Hindus plus Mahomedans, may be shared between them on the basis of populations, total or adult.
- (c) To raise no question against the depressed classes in respect of any matter outside Bengal—but Bengal Hindus contend that in Bengal either the original

*Communal Award should stand, unmodified by the Poona Pact or that allocation should be made on some equitable basis after Parliament has given a definition of "Depressed Classes" in its application to Bengal. They do not intend to dispute the tests of untouchability adopted by the Franchise Committee.*

### CAPTURE OF BENGAL LEGISLATURE BY HINDU "EXTREMISTS."

It is necessary to recognise that certain sections labour under an undefined dread of the devastating powers of mischief of "extremists." It may be pointed out, that if the prayers of Bengal Hindus are allowed, they will still form about one-third of the whole House. This itself should be convincing as to their innocuous position.

When it is further remembered that, judging by past experience and probabilities, it is not possible that all Bengal Hindu seats can go to 'extremists'—one can realise that this dread of capture of the Council by them is a bogey which should not frighten any thinking person.

Past experience shows that in the hey-day of Swarajist influence, with the commanding personality of the late Mr. C. R. Das as their leader—in every case when Government was defeated, or the Ministry overthrown, or a situation approaching a deadlock was created, it was done with the help of Mahomedan members of the Bengal Legislative Council. But for their help, the Congressmen who never formed more than a fourth of the house, could not have done what is regarded as 'mischief' for purposes of argument.

This point is amplified with particulars in Appendix C.

## APPENDIX A.

*St. James Court  
Buckingham Gate  
London  
S. W. 1  
14<sup>th</sup> December, 1932.*

My dear Prime Minister,

I am forwarding to you as requested, certain telegrams. The first telegram from 25 Members of Bengal Legislative Council reads as follows:—

“Representation from twenty-five members of Bengal, Legislative Council. Poona Depressed Classes Pact made without consulting Bengal Hindus. No Depressed Classes problem in Bengal as elsewhere in India, as found on careful examination by Lothian Committee. Ambedkar and others had no direct knowledge of Bengal conditions, where alleged depressed classes suffer no political disability. Poona Pact introduces revolutionary change, cutting at root of normal progress of Hindu society in Bengal. Earnestly urge necessity for modifying Poona Pact as affecting Bengal, as Lothian Committee Scheme meets Bengal situation fairly. Show this Premier”.

“B. C. Chatterji, S. M. Bose, Maharaja Dinaipur, Maharaja Cossimbazar, Rajabahadur Nashipur, Narendra Kumar Basu, Syama Prosad Mukerji, Rai Bahadur Kamini Kumar Das, Satyendrakumar Das, Keshabchandra Banerji, Haridhan Dutt, Satishchandra Mukerji, Saratchandra Mitra, Anandamohan Poddar, Satishchandra Roychowdhury, Hanuman Prosad Poddar, Kishorimohan Chowdhuri, Satyakinkar Sahana, Khetramohan Roy, Debrai Mohashai, Santiskhareshwar Roy, Saratkumar Roy, P. Banerji, Surendranath Law, Saileswar Singhroy”.

2. I showed the above telegram to Dr. Ambedkar, who in his turn received a telegram, copy of which reads as follows:—



“Regarding Bengal, Hindu friends cable for revision Poona Pact for Bengal. *They defaulted twice, once before Lothian Committee when they failed to give list of depressed classes. Second when invited to Bombay September Conference nobody responded.* Now they raise false cry, besides they are unjustifiably afraid of Namasudras appropriating all seats. Further, Bengal Government depressed population figure is 103 Lacs, vide Lothian Volume II, page 263, while we assumed for calculation of seats 75 lacs, vide Lothian. Poona Pact follows closely Lothian recommendations. Refer Mullicks note—Lothian Volume II page 251. In Calcutta Thakkar found general Hindu feeling in favour of Pact. Hence Pact approved by Cabinet can't be revised”.

“BIRLA & THAKKAR.”

3. I have received two further telegrams, viz. :—

“Birlas cable to Ambedkar. Birla not acquainted with conditions in Bengal and has absolutely no representative character there. Poona Pact in allowing thirty seats to depressed classes in Bengal, number being equal to seats allowed to Madras, cannot be justified. Question of depressed classes in Bengal is certainly not at all acute and is absolutely different from that in other Provinces. Premier's Award on this question is utmost that Bengal can accept”.

“Satischandra Sen, Bijoykumar Basu, Satyendrachandra Ghosh Maulik, Amarnath Dutt, Satyendrachandra Mitra, Satyacharan Mukherjee, Satyendranath Sen, Jagadishchandra Banerjee, Naba Kumar Singh Dudhuria, Bengal Non-Mahomedan Representatives present in Central Legislature”.

“AMARNATH DUTT.”

“Bengal M.L.C.s who wired previously state Birla Thakkar cabled misrepresentations. Bengal Representative not invited to Conference leading to Poona Pact. Its terms astonished Bengal. Not being agreed, according

Premiers formula, settlement cannot bind Bengal. Lothian Committee made enquiries which castes are untouchable and unapproachable in Bengal. Provincial Franchise Committee consisting Hindus Mahomedans correctly answered. Report Volume 2 page 230. Mullicks Note no<sup>t</sup> placed before Committee, but prepared secretly. Mullicks classification of Bengal depressed different from other provinces covering Subarnobaniks Sahas Mahishyas admittedly outside depressed category.. Also England-returned Indians, Brahmo Samaj people, even Baidyas, Kayasthas contrasted against Brahmans. Bengal Public life free from caste consideration. High caste Hindus elected a Namasudra against Chatterjee 1923 at Madaripur. Deshbandhu disregarded orthodoxy marrying Brahman's daughter, but his following included all High caste people. Distribution of Namasudras *vide Calcutta Gazette* fourteenth July ensures their securing twenty reserved seats. Non-Namasudras alarmed at prospect. Namasudras Rajbansis rigidly exclude other depressed castes from social communion, and have less right to represent them, than high caste people who have worked for generation for their uplift. Poona Pact introduces political division Hindu Bengal, where none hitherto existed. Show Premier".

"CHATTERJEE AND OTHERS."

4. As I left India in August last, I have no personal knowledge relating to the Poona Pact.

5. In your "Communal decision" it was stated, "His Majesty's Government wish it to be most clearly understood that they themselves can be no parties to any negotiations which may be initiated with a view to revision of their decision and will not be prepared to give consideration to any representation aimed at securing modification of it which is not supported by all the parties affected".

6. Under your decision, the Hindus (including all alleged depressed classes) have been given 80 seats whereas Mahomedans get 119 seats, i.e., 50 per cent. more than

Hindus. The European interests get 25 seats, viz., 10 per cent. of the total seats, while they do not form any appreciable fraction of even one per cent. of the population. Factors of position, influence, education, etc., have apparently been considered,\* and legitimately considered in case of Europeans—but apparently no principle beyond the counting of heads has been considered between Hindus and Mahomedans. The latter claim to constitute 54 per cent. by inclusion of infants below 21 years, for, if adults are counted, Mahomedans have no appreciable majority, if at all.

7. Even if Mahomedans form 54 per cent. of the population, their getting 50 per cent. more than Hindus is explained by the fact of carving out of the special seats, 51 in number, in disproportionately large share from the Hindus.

8. The nature of the Special Seats, which include 25 for Europeans, 4 for Anglo-Indians, 8 for Labour, clearly does not lend itself to the suggestion that Hindus can make up their proper share in the total, from these seats.

9. I fully realise that having regard to the wording of your decision, arguments, however forcible, cannot be listened to, by you, but with the best of intentions, the decision operates very unfairly on Hindus—and that is all the greater reason why Bengal Hindus other than the Depressed Classes object to the whittling down of what has been given to them by your decision. I may be permitted to add that if for the sake of argument it is assumed that one community has got nearly 50 per cent. more than its share, it is idle to expect that it will give up its unjustified gain from any abstract considerations of justice.

10. The matter involved relates solely to a question of fact, viz., did the people now complaining agree to the modification of your decision? The laboured argument about agreement by alleged “defaults”, it is submitted, has no force. In any case, it remains to be determined whether there has been any such default, from which it can be concluded that Bengal non-depressed classes have agreed to alter your Award.

11. It is submitted that the matter is too important to be dealt with on the footing, that the telegram of Birla and Thakkar represent facts correctly—facts which have been disputed. Nor does any agreement follow, even if these facts are taken to be substantially correct.

12. In the interest of the party aggrieved, an enquiry as to the fact of the non-depressed classes in Bengal being parties to, or being bound by the Poona Pact, should be made—whether through the Government of India or Bengal, or any other responsible and neutral Agency, is a matter of detail.

I am forwarding a copy of this letter to Dr. Ambedkar for information. As I have to leave England very soon, any acknowledgment of, or reply to this representation may be kindly directed to be forwarded to:—

MR. NARENDRA KUMAR BASU, M.L.C.,  
*Bar Association,*  
 High Court,  
 Calcutta.

Yours truly,  
 (Sd.) N. N. SIRCAR,  
*Member, Indian Round Table Conference.*

## APPENDIX B.

*A Note on the Depressed Classes.*

At a time when the Depressed Classes could dictate whatever terms they liked, by holding over the Hindu head the sword of Mahatma Gandhi's threat of "fast unto death", the Poona Pact was arrived at "on the footing of the claim asserted by them, that the Depressed Classes in Bengal amounted to  $7\frac{1}{2}$  millions. The figure was provisionally mentioned in the Franchise Committee's Report *on the basis of "Untouchability."*

The Lothian Committee asked the Local Government to "*examine the varying figures*"—but all figures were based on "Untouchability".

The Depressed Classes may be made to appear at any figure between .07 millions to 11 or 12 millions or more, depending on the definition of the term "Depressed Classes."

In the Census Report of 1921 Mr. Thompson made the following observations:—

"The expression 'Depressed Classes' has, however, attained a political significance, enhanced recently, by the provision for their special representation in the Legislative Council. What are the depressed classes does not seem to have been defined when the Reformed Legislature was constituted and this step was taken."

"Up to this time, many of the more advanced among the backward classes had been trying to raise their status, by changing the nomenclature of the castes. Thus the Chandals became *Namasudras* and wanted to be *Brahmans*. Many including the *Rajbanshis* became *Kshatriyas* and so on. The tide began to turn as soon as it was fully realised that there were to be substantial special privileges for the depressed classes. Those who were trying to rise up, hastily commenced climbing down. The *Rajbanshis* all along had resented being classed as backward, but now they want to be included in the Depressed Class list, but up to

1921 they had made no such claim, and they still maintain that they are backward, but not depressed."

The Franchise Committee discussed in detail the various definitions and ultimately accepted two tests, *viz.* :—

(1) Those who are denied access to the interior of ordinary Hindu Temples ;

(2) Those who cause pollution—

(a) by touch,

(b) within a certain distance.

Other definitions, including that suggested by Mr. B. C. Mallik on behalf of the Depressed Classes in Bengal, were rejected by the Committee. This will be discussed later. •

The Franchise Committee specifically stated that "Depressed Classes should *exclude* Mahomedans and Christians and *those Hindus who are economically poor and in other ways backward, but not regarded as untouchables.*"

In Para. 9 of the Communal Award the Prime Minister stated :—

- "The precise definition in each Province of those who, (if electorally qualified) will be entitled to vote in the special Depressed Class Constituencies, *has not yet been finally determined.* It will be based as a rule on the general principles advocated in the Franchise Committee's Report. Modification may, however, be found necessary in some Provinces in Northern India, where the application of the general criteria of untouchability might result in a definition unsuitable in some respects to the special conditions of the Province."

It is clear the Prime Minister intended at some time to come to a precise definition, and he had indicated that in some Provinces, the definition based on the general criteria may have to be modified.

Attention is drawn to the exclusion of "otherwise backward but not regarded as untouchables". In fact, but for this, there would be no reason for excluding from Depressed Classes, sections of Mahomedans who are politically backward.

The Mahomedans might be kept in two compartments, marked "forward" and "backward," e.g., *Syeds* in the first, and *Jolahas* in the second.

The Government of Bengal on the strength of Para. 9 of the Award, have published not a list of Depressed Classes, on the principles laid down by the Franchise Committee, with or without modification, but ignored the criteria altogether, they have now divided the Hindus into "socially and politically backward" and its negative. For brevity they may be loosely described as "Backward" and "Forward." This list has been entered in the "White Paper" as a 'Provisional' list.

The Hon. Mr. Prentice in answer to a question in the Bengal Legislative Council on 27th March, 1933, stated *inter alia* :—

(i) "Government have not found it necessary to adopt any definition of "Untouchability", or of the "Depressed Classes" in connection with impending Constitutional changes (Note—Though Prime Minister contemplated a final precise definition, based on the general criteria accepted by the Franchise Committee, with modification, if necessary, of those criteria in some Provinces).

(ii) It is a fact that the Franchise Committee asked the Government to supply a list of castes and sub-castes which it considered to be depressed, applying the criteria of Untouchability and Unapproachability (including such disabilities as refusal of entry to public eating houses).

(iii) The test of Untouchability has not been adopted by the Government of Bengal in selecting the Scheduled Castes.

The justification for the Government of Bengal, of proceeding in direct contravention of its instructions, and entering into an investigation, not within its jurisdiction, is based on the ground that the criteria suggested by the Franchise Committee "would not be suitable for this Province."

This, as a finding of fact, is erroneous. The criteria have been set out above, and reference to witnesses examined before the Franchise Committee, on behalf of the Depressed Classes, will show, that every one of them was relying on these criteria

and these criteria alone. They led evidence to show to whom the criteria applied, and their cross-examination was directed to reduce the number to which the criteria were applicable. What has happened is that not only have the general criteria been ignored, but what was specifically directed to be excluded (*viz.* Castes poor and otherwise backward, but are not regarded as Untouchables) has been included.

Modification of the criteria may be permissible if the facts justify it ; but the Government of Bengal admit that it did not concern itself with the criteria of Untouchability, or with any definition.

With the highest respect that a considered opinion of the Government commands, it is submitted that the same is erroneous.

On the merits of the provisional decision by the Government of Bengal, it will suffice to test them by the two Scheduled Castes which supply the largest numbers, *viz.* the Namasudras, and Rajbansis, who together nearly make four millions.

The writer, being a Hindu of Bengal, is discarding opinions of his own community, which are likely to be biassed. He will rely on opinions of responsible European Government officials, and refers to some of them.

#### NAMASUDRAS.

(1) Paras. 828 and 832 of the Census Report of Bengal show that in 1911 they claimed to be Brahmins. The *District Gazetteer* shows that they still claim descent from Brahmins.

(2) "It is a progressive caste in more than one way. It has grown steadily and largely, while other Hindu castes had only slight increases. Its members have also done much to improve both their economic and social status. Formerly a man of this Caste, when asked, replied Chandal or Charal, and they are generally known as Chandals.

"As their circumstances and education improved, they began to adopt the more honorific name of Namasudra, which received official recognition, for, on account of the resentment which the name Chandal aroused, they were entered in the Census Table



of Castes as Namasudras or Chandals in 1891, as Namasudras in 1901, 1911 and 1921. For some generations they have shown sturdy independence. In 1873 they proclaimed a general strike, refusing to serve any of the upper classes in whatever capacity, unless a better position in the hierarchy of Castes was accorded to them. . . . They have also taken up education as a means of advances with real earnestness, and are steadily progressing in that respect."

(*District Gazetteer of Faridpur by O' Malley*).

"The Namasudra is in fact proud of his Caste. No Namasudra would be likely to conceal his caste from the enumerator. . . . The awakening of political consciousness among the Namasudras is a recent phenomenon which is likely to have a considerable political importance in the future. Already Namasudra members have been returned to Bengal Council, and the Namasudra candidate has been in evidence at the elections in this District."

MR. FAWCET—*Settlement Report of Khulna*—(1908).

"It should be stated, as a Community, the Namasudras show considerable aptitude for organisation, and that the ideals pursued by the better classes among them seem praiseworthy. As an instance of this may be mentioned a Conference recently held (March 1908), which was attended by Namasudras from Khulna, the adjoining districts and some districts of Eastern Bengal. From the published reports it appears that its objects were the spread of education, the establishment of a permanent fund and the removal of social evils."

O'MALLEY'S *District Gazetteer of Khulna*—(1908).

"The Namasudras are very particular as regards caste prejudices. They never allow a European to stand or walk over their cooking place, on board a boat, and if any one inadvertently does so while food is being prepared, it is at once thrown away."

O'MALLEY'S *District Gazetteer of Jessore*—(1912).

"In Jessore and Khulna the Namasudras now claim Brahman descent" (*Ibid*).

"The Namasudras are not only the most numerous, but also one of the most interesting castes in Jessore, owing to their independence and self-reliance and their efforts to rise in social state."

(*Ibid.*)

"More recently there has been considerable bad feeling between Namasudras and Mahomedans, which has culminated in serious riots over a considerable area. While the Namasudras have become *more self-respecting*, they have become *more self-assertive* and the resultant friction between them and other communities has led to a good deal of turbulence."

(*Ibid.*)

#### RAJBANSHIS.

(1) "A most persistent agitation was carried on by the Rajbanshis of North Bengal with the object of being recognised as Khattriyas by descent."—Para. 835, Census Report of 1911.

(2) Since the inauguration of the Reforms in 1919 they have succeeded without interruption to get themselves returned to the Legislative Council.

In 1920, of the two Hindu Members elected, one was a Rajbanshi.

In 1923 election, in spite of Swarajist opposition, one Rajbanshi (Roy) was returned, and another (Rai Saheb Barma) was defeated by a very narrow majority.

Since then in every election, both the Hindu seats in Rungpore were captured by Rajbanshis, to the exclusion of so-called higher castes.

In Local Boards too they are getting returned. They call themselves Barman which is the surname for Khattriyas, and generally wear the sacred thread. They are finding occupations as Pleaders, Mukhtears and Tehsildars in Zemindary estates. Education is spreading among them and they are well-organized. They are represented both by election and nomination in local and Union Boards, throughout the district of Rungpore.

(3) The Franchise Committee stated as follows:—

“This total includes the Rajbanshis numbering 1,804,371, who have themselves asked for exclusion and who, it is generally agreed, should be excluded.”

. . . (Note.—They subsequently submitted a representation to the Local Government challenging the statement and now, they with the sacred-thread round their necks, have been promoted (?) to the position of “Depressed Classes.”).

The writer is not aware whether the Prime Minister had before him the information that different castes of “Untouchables” observe untouchability *inter se*. A “Muchi” is as much an untouchable for a “Namasudra” or a “Rajbanshi” is for the Brahmin.

The following words of the Simon Report may be referred to:—

“But we are averse from stereotyping the difference between the Depressed Classes and the remainder of the Hindus, by such a step (special electorates) which we consider would introduce a new, and serious bar to their ultimate political amalgamation with others.” (Vol. II, p. 65).

It may be desirable to remember that the really depressed classes in Bengal like the Muchi will have no interest in the 30 seats which will go to Rajbanshis and Namasudras.

“As early as 1901 the Rajbanshis were reported as to some extent *Jalchal*, that is, considered of sufficiently elevated social status to offer water to the higher castes and their position has by no means deteriorated since then. It is certain that no caste can be depressed which is *Jalchal*. The claim to be included within the Depressed Classes is clearly incompatible with an insistent demand to be given the consideration of the second twice-born *Varna* and can only be interpreted as evincing a desire to run with the hare and hunt with the hound.

\* \* \* \* \*

“Both their present social position and their numbers in the areas to which they are practically confined justify their exclusion.” (Census Report of 1931, Vol. 5, Part I, pp. 500-01).

## ASCERTAINMENT OF "DEPRESSED CLASSES" BY THE GOVERNMENT OF BENGAL.

That the Bengal Hindus have a genuine grievance on account of mistakes made by the Government of Bengal will be apparent from the following summary of events.

In recent times, the Simon Commission were the first authoritative body to enter into this question. They were of the opinion that untouchables in Bengal did not suffer so severely or so universally as in the South. (Vol. I of Report, p. 39).

In Volume I, para. 58 they laid down that the main tests for deciding untouchability should be "causing pollution by touch, or by approach within a certain distance" and also equal rights in the matter of water, schools and the like.

It was observed by them, that in the provinces of Bengal, the U. P. and Bihar and Orissa "the connection between theoretical untouchability, and practical disability is less close, and a special investigation might show, that the number of those who are denied equal rights in the matter of schools, water and the like, is less than the total given for the depressed classes in these areas."

- They concluded, that there was for these reasons a wide margin of possible errors in the figures quoted in the Report.

The Local Government did not hold any special investigation of the nature indicated by the Simon Commission, and replying recently to a question in the Bengal Council, the Hon. Home Member stated that the special enquiry suggested by the Simon Commission was made by the Indian Franchise Committee.

The Indian Franchise Committee examined the question minutely, but the Local Government was unable to help the Committee in arriving at a final decision.

The Committee issued a questionnaire and question 11B (page 197, Vol. 2) was as follows:—

"The castes and sub-castes which in your opinion are depressed in your Province, *applying the criteria of un-*

*touchability* (including disabilities as refusal of entry to public eating houses) and the population thereof.”

The reply of the Government of Bengal will be found on pages 214-15 of the same Volume and the list at pages 220-21.

While the Committee wanted by their question a list of Depressed classes, which satisfied the tests laid down in the question, the Bengal Government in reply to it gave a list which had not been prepared on that basis at all.

It will be seen that there was no explanation in the Government's reply, that the list was not of Depressed Classes answering the tests. The Franchise Committee and the Government of Bengal were never *ad idem*. The Government list gave a total of 8,071,201.

That the Franchise Committee possibly took this list to be a list of Depressed Classes as defined by them, and as required by them, will be apparent from paragraph 297 of the Report which is as follows:—

“We asked the Local Government, and the Provincial Committee, to give us a list of the castes and sub-castes together with an estimate of their numbers which in their opinion are depressed in Bengal, *applying the criteria of untouchability and unapproachability*. The Government of Bengal stated that the list of castes to be included in the Depressed Classes was under revision but forwarded a list of those castes which are at present classed as depressed, with a corresponding list taken from the 1931 Census, indicating the omissions and additions which have been proposed.”

The Bengal Franchise Committee did not answer this question at all and did not supply a list. They only noted “this question is left to the Government to answer” (Vol. 2, pp. 235).

Mr. M. B. Mullick, a representative of the Depressed Classes, was not satisfied with the criteria of untouchability suggested by the Committee and submitted a long Minute (pages 251-59, Vol. 2), in which he suggested the following additional criteria:—

(a) Castes from whose hands three high castes or even the Nabasaks—*i.e.*, caste Hindus, would not accept water, and whose presence either in the kitchens or in the room where water and cooked food are kept, would pollute the same according to their estimation.

(b) Castes who would not be allowed into a public temple and whose presence in the same would defile articles of worship.

(c) Castes who would not be allowed to enter or have their meals inside the dining-room of a hotel or eating house run by the aforesaid caste Hindus.

(d) Castes at whose social and religious functions Srotريا Brahmins (*i.e.*—the priests) officiating in such functions in the house of the caste Hindus, would not officiate.

(e) Castes who would not be served by the Srotريا Napits (*i.e.*—Barber) whose services are necessary in various social and religious functions of the Hindus.

• Mr. Mullick submitted a long list of 86 castes based on these wider criteria, *which criteria were not accepted by the Franchise Committee.*

It is a curious coincidence that this long list, based on 5 additional criteria, is almost identical with that supplied by the Government of Bengal. The only important omission was the "Rajbanshi," and the total number of castes in his list was 83 as against 85 of the Government list. This slight discrepancy the Bengal Government proceeded to rectify, by including the Rajbanshis as the following extract from Para. 297, Vol. I of the Report, will show:—

"A few days before our Report was signed, we received a telegram from the Local Government to the effect that up to the date of the telegram the revised figure of the *depressed classes* in the provinces was 10.3 millions. This includes the Rajbanshis numbering 1,804,371 who have themselves asked for exclusion, and who it is generally

agreed should be excluded. Certain hill tribes should also be excluded. The balance will number  $7\frac{1}{2}$  millions."

This telegram is capable of leading the Franchise Committee to think that 10.3 millions was the number of "Depressed Classes" as defined by them.

The definition finally adopted by the Franchise Committee has already been quoted.

In the last Census the Santals and other tribes had been enumerated separately under Hindus, Tribals, Christians, etc., and the Hindu portions of these tribes had been included in the list of Depressed Classes. These primitive tribes also are thus being split up, and portions included in the Depressed Class list; although so far as Bengal is concerned, the Committee had recommended that they should be excluded.

Another serious mistake in the lists supplied by the Bengal Government to the Franchise Committee is, that the figures of population quoted against each caste is not the total population for the British territory alone but the total population including States.

As regards the provisional list recently published by the Government of Bengal comments have already been made. Government has been flooded with objections from castes who insist on exclusion.

The Census Superintendent has rightly pointed out that the inclusion of influential and well-organised castes in the list, who are not really depressed, creates the danger that they may swamp the general interests of the genuine depressed classes. (See para. 18, Appendix I, Chapter 12, p. 500, Vol. 5, Part I, Census Report for 1931).

This is one of the reasons why the Census Commissioner has strongly recommended the exclusion of the Rajbanshis from the list, remarking that they cannot be allowed to hunt with the hound and run with the hare, and that their exclusion is justified by reason of their present social position, and their numbers in the areas to which they are practically confined.

The castes which have no claim to be included in the Depressed Classes list may be broadly divided into two classes :—

(a) Those who claim to belong to the twice-born, namely, Brahmins, Khatriyas, and Vaisyas,  
and

(b) The aborigines whom the Franchise Committee directed to be excluded.

Those coming under the first category are easily distinguished by the nomenclature adopted in the Census Schemes, such nomenclature showing that they are regarded as Khatriyas or Vaisyas.

The 10 Castes which are entered as Khatriyas or Vaisyas are :—(1) Bagdi, (2) Bhuimali, (3) Jhatomalo, (4) Kapalik, (5) Kochh, (6) Namasudra, (7) Patni, (8) Koli Pundari, (9) Rajbanshi, (10) Sunri.

Eighty-six castes have been scheduled by the Bengal Government. The total of these will be 9,336,624. If the ten castes stated above are excluded the balance of the scheduled castes will be 4,438,695. If this is objected to, in any case the Namasudras (2,086,192) + the Rajbansis (1,485,450) + the aboriginal tribes (1,281,844) should be excluded. This will leave 4,853,486 as the total of the scheduled castes—but here again numerous castes have sent in written objections to inclusion in the schedule.

If the general criteria of the Franchise Committee, or the tests which found favour with the Simon Commission are applied, it will be difficult to make out more than three and a half or four millions of "Depressed Classes" in Bengal.

The Premier's Award left no discretion with the Local Government to prepare a list other than the list directed by him. In preparing such a list it was obligatory of the Local Government to adopt some definition of Depressed Classes but they admit not having done so. Such definition must be in conformity with para. 9 of the Communal Award.

For adopting a definition, the Local Government had not been given any power to deviate from the principles laid down in the Award.

Lastly, the facts stated above will show, that the highly inflated figures which have been erroneously put forward by



the Government of Bengal, and its action in including castes who do not satisfy the criteria laid down in the Franchise Committee's Report with or without any legitimate modification, and the inclusion of hill tribes who were directed to be excluded, are calculated to produce an incorrect view of the position and number of the Depressed Classes.

## APPENDIX C.

**Deadlock Created by "Extremists."**

It was in the year 1924 and the years immediately following, that Ministers were repeatedly turned out and the constitutional machinery broke down.

Among the Hindus, the ~~Svarajists~~ under the leadership of the late Mr. C. R. Das were in large majority, and there is a general impression that Mr. C. R. Das and the Hindu extremists had "captured" the council and played havoc with it. This is a misleading half-truth.

The total number of members in the Bengal Legislative Council was, as it is now, 140. Of these, 114 were elected. Of the 114 elected members, 16 were Europeans, 2 Anglo-Indians, and 39 Mahomedans. It has to be remembered that the elected European and Anglo-Indian members always voted with the Government.

On March 24, 1924, a motion for refusal of Ministers' salaries was carried in the Legislative Council. The Ministers, 2 in number, were Mahomedans.

The mover was a Mahomedan.

63 members voted for the motion, 62 against.

Out of 39 elected Mahomedans, 19 voted for the motion and only 15 voted against it. 3 Mahomedans were absent.

(*Vide* pp. 183, 184, Vol. XIV, No. 5 of 1924 of Official Reports of Bengal Legislative Council Proceedings).

Again on August 26th, 1924, Mr. Akhil Crandra Dutt brought a motion for refusal of Ministers' salaries in the Council, and it was carried.

68 members voted for the motion and 66 (including officials and nominated members) against it.

Out of 39 elected Mahomedans, 21 voted for the motion, and only 16 against it. (*Vide* pp. 68, 69, Vol. XVI (1924) of Official Reports of Bengal Legislative Council Proceedings).

On March 23, 1925, a motion was carried in the Council for refusal of Ministers' salaries.

69 voted for the motion, 63 against. Out of 39 elected Mahomedans, as many as 27 voted for the motion and only 10

Mahomedans voted against it. One Mahomedan remained absent. (*Vide* pp. 192, 240-41, Vol. XVII, No. 4 (1925) of Official Reports of Bengal Legislative Council Proceedings).

Even in petty matters like disallowing money for Governor's Band, an action prompted not merely by reasons of economy, but by another, obvious motive, the Hindu extremists had their way only on account of Mahomedan support.

The division lists given above point to two cardinal facts :—

(1) The extremists by themselves, without substantial Mahomedan help, were never able to turn the Ministers out of office, or create any mischief.

(2) A large number of elected Mahomedans were as much out for wrecking the constitution, as any Swarajist.

It is not intended here, either to condemn, or to approve the action of Hindus or Mahomedans, but to remove the illusion that the Council was wrecked by Hindu "extremists". In the proposed Legislature, if the claim of Hindus to larger representation is allowed in full, even then, they will be comparatively few in number, and if they want to do any "mischief," they must depend upon help from the Mahomedan camp.

IS THE COMMUNAL DECISION  
A “PLEDGE” ?



## IS THE COMMUNAL DECISION A "PLEDGE"?

• In placing before members of Parliament the pamphlets sent herewith, I may be permitted to make some observations on the contention put forward in certain quarters from time to time, that a "pledge" has been given by His Majesty's Government.

It is respectfully pointed out that among others the following "pledges" have been made by the Prime Minister, "on behalf of His Majesty's Government," and as he said, "With the authority of my colleagues" :—

(1) The view of His Majesty's Government is that the responsibility for the Government of India should be placed upon Legislatures, Central and Provincial, with such provisions as may be necessary for a period of transition.

(2) The Governors' Provinces will be constituted on the basis of full responsibility.

• It is submitted that these and various other "pledges" given stand on the same footing as the "pledge" in respect of the Communal Award.

• The Communal decision became necessary because parties could not agree. They refused to leave the matter to the Prime Minister as arbitrator. Decision on the Communal question stands on exactly the same footing as decisions on various other matters, on which parties failed to agree, e.g., number of seats in the Central Legislature, quota of the States, matters relating to Federal Finance, etc.

One of the pamphlets enclosed deals with the question whether the decision is in the nature of an arbitral award.

The hands of Parliament or of this Committee are not tied in any way. As regards His Majesty's Government, if it is convinced that serious injustice will be done, it is not too much

to expect that it will not say: "We are convinced that what we are doing is wrong, but we are 'pledged' to do what is in fact unjust."

Circumstances have compelled His Majesty's Government to change its previous decisions relating to finance, and it is hoped that its sense of justice should prove an equally compelling force, in relation to the Communal decision.

To leave the Hindu community with 35 to 40 seats in a house of 250 will be simply inviting disaster.

Nothing can be a surer guarantee for filling the Terrorists with well-founded hope arising from the creation of an atmosphere favourable for their activities. The Hindus will be justified in feeling that serious injustice has been done to them, and the belief that they cannot have their legitimate share or an effective voice in the Legislatures will be a formidable recruiting agency for swelling the ranks of sympathisers of Terrorists.

It is firmly believed that if the Bengal Hindus feel that justice has been done to them, and their future lies in working the proposed Constitution, the bulk of these sympathisers will break away from the Terrorists, whereas under the proposed constitution there will be every incentive for turning away from the Legislature in the spirit of aggrieved resentment.

Not as a Hindu haggling for more seats for his community, but as one who apprehends that the White Paper will be ripped open by accession of strength to the Terrorists, I earnestly appeal to Parliament to avoid rousing that spirit of bitter hostility which will be inevitable if equitable treatment of Hindus in Bengal is prevented by "Pledges" and Pacts. I ask the Committee to accept my assurance that from my intimate knowledge of the Terrorists and the conditions prevailing in Bengal, I firmly believe in every statement I have made in this Memorandum. Lord Lytton and Lord Zetland have been Governors

of Bengal, and another Governor, Sir Stanley Jackson, is now in England—and I cannot believe they will disagree with my opinion.

N. N. SIRCAR,  
Advocate-General of Bengal.  
Delegate for Conference with  
Joint Select Committee.

LONDON,  
15th June, 1933.





**IS THE COMMUNAL DECISION AN  
ARBITRAL AWARD ?**



# IS THE COMMUNAL DECISION AN ARBITRAL AWARD?

ST. JAMES' COURT,  
Buckingham Gate, S. W. 1.  
15th June, 1933.

It has been sometimes contended that the Communal decision "is in the nature of an arbitral award." I venture to submit that this is incorrect, and I place before the Members of the Joint Committee the following facts for their consideration.

The second Report of the Minorities Committee, dated 18th November, 1931, and signed, "J. Ramsay MacDonald on behalf of the Committee," concludes with the following paragraph:

" . . . and during the various discussions suggestions were made that British Government should settle the dispute on its own authority. These suggestions, however, were accompanied by such important reservations that they afforded little prospect of any such decision securing the necessary harmony in the working, but the Prime Minister, as Chairman of the Committee, offered to act and give a decision of temporary validity, if he were requested to do so by every member of the Committee, signing an agreement to pledge himself to support his decision so as to enable the constitution to be put into operation, further efforts for an All-India Settlement being pursued in the meantime."

2. Some delegates, e.g., Dr. Moonje, made over signed letters to the Prime Minister—but others, including the Bengal Hindu delegate (Hon. Sir P. C. Mitter, K.C.S.I.), declined to agree to arbitration.

3. In the Prime Minister's final speech on 1st December, 1931, he stated:

"If you cannot present us with a settlement acceptable to all parties as the foundations upon which to build, in that event His Majesty's Government would be compelled to apply a provi-

sional scheme, for they are determined that even this disability shall not be permitted to be a bar to progress."

4. On the 20th November, 1931, Sir P. C. Mitter had a note circulated (see p. 104, Proceedings of Second R.T.C.) which stated inter alia :

"I may mention that although I am the sole Hindu representative from Bengal on the Minorities Sub-Committee, I was never asked by the Muslim Delegation to discuss the Bengal Communal question with them; I may add that I tried to convey the information that I was quite willing to discuss the matter."

5. It is sometimes said that the Delhi Consultative Committee agreed to have the dispute arbitrated by the Prime Minister. The proceedings of this Committee are not available in print and cover 352 closely typed pages. For easy reference I am setting out the portions relating to the Communal question annexed to this note as an appendix.\* Those proceedings show :

(a) The members of the Committee did not agree to arbitration.

(b) The Muslim delegates made it absolutely clear that they would claim to challenge the decision, and they were not agreeing to any arbitration. Attention is drawn to the passages in the proceedings printed in thicker type. Muslim delegates repeatedly stated that they did not ask for any arbitration.

(c) There was no Bengal Hindu on the Committee and no reference was made at any time to anybody in Bengal for enquiring whether the Prime Minister or the British Government should be asked to settle the dispute.

(d) The last meeting of this Committee was held on 5th March, 1932.

Communal decision is dated 17th August, 1932.

N. N. SIRCAR.

\*See page 61 of this work.

## APPENDIX.\*

*Proceedings of the Consultative Committee of the Round Table Conference at a meeting held in the Committee Room in the Viceroy's House, Delhi, at 10-30 a.m.\* on Monday, the 22nd February, 1932.*

### Present :

His Excellency Lord Willingdon (Chairman).

The Hon'ble Sir Henry Moncrieff Smith (Vice-Chairman).

### Members :

Rao Bahadur V. T. Krishnama Chari, Nawab Liaqat Hayat Khan, Sir Manubhai Nandshankar Mehta, Nawab Sir Muhammad Akbar Hydari, Sir Mirza Muhammad Ismail, Mr. E. C. Benthall, Mr. A. H. Ghuznavi, Mr. M. R. Jayakar, Mr. N. M. Joshi, Dr. B. S. Moonje, Rao Bahadur Sir Annapu Parasuramadas Patro, Sir Tej Bahadur Sapru, Dr. Shafaat Ahmad Khan, Capt. Sher Muhammad Khan, M. R. Ry., Rao Bahadur Srinivasan, Sardar Saheb Sardar Ujjal Singh and Mr. Zafarullah Khan.

### Chairman :

The next question, Gentlemen, I want to ask you is this. You will remember that the first thing I begged of you when I met you a few weeks ago was to go outside this room and discuss together, and, if you could settle by any means, to come to some arrangement on the communal question. I should like to hear from the members of the Committee if they have arrived at any agreement, or if they see any likelihood of arriving at an agreement.

---

\*This is the appendix referred to in the pamphlet entitled : "Is the Communal Decision an Arbitral Award?"

**Mr. Zafarullah Khan :**

May I make a statement on that? I am extremely sorry to have to submit to Your Excellency that no agreement on the communal question has so far been arrived at, and the feeling seems to be that no kind of effort made at this stage is likely to result in a mutual agreement on this question. Therefore, I must confess that no serious attempt has been made in the interval to tackle this question. I personally threw out feelers in one or two directions, but I did not meet with any response which could justify me in making more strenuous efforts in that direction. It was felt that the stage had arrived where the communities had, as it were, taken up their last trench positions from which they were not willing to retire, and that the difficulty could only be solved by a decision by the British Government itself rather than by further attempt at discussions which land us nowhere. That is the present position. As a result of that position, if Your Excellency permits me, I might state the Moslem position with regard to the Committee and its work. In this connection I may submit for Your Excellency's information that in the Federal Structure Committee itself and in the Round Table Conference generally the position taken up by the Moslems was that they did not wish in any manner to obstruct the work either of the Conference or of the Committee. On the other hand, they were naturally anxious both to safeguard their own position and interests and also to know where they would stand in the new scheme of things, and in the absence of such knowledge with regard to several matters they could not make final and considered submissions. That was the position taken up there. In this connection I might draw Your Excellency's attention to the first paragraph at page 3 of the Fourth Report of the Federal Structure Committee dated the 26th November, 1931. It says:—

“The Committee, when discussing the subjects covered by this report, namely, Defence, External Relations, Financial Safeguard and Commercial Discrimination, did not have the advantage of hearing the views of Moslem members of the British-India delegation, who reserved their

opinion on such questions until such time as a satisfactory solution had been found for the problems which confronted the Minorities Committee."

Some other representatives similarly reserved their opinions. Although the venue has been changed from London to Delhi, so far as these and similar questions are concerned, the position of the Moslem representatives is the same as that described in this paragraph, and although we are as anxious as anybody else to proceed with the work which confronts this Committee and the Round Table Conference, we also feel that with regard to several matters our opinions must necessarily be tentative, and therefore not helpful towards a decision, unless we know what our position in the new constitution is likely to be. **Consequently, I think, if my colleagues will agree, that as our own efforts have failed, Your Excellency might well press upon the British Government the necessity of pronouncing an immediate decision of those questions which were before the Minorities Committee, in order to facilitate and accelerate the work of this Committee and of the other Committees that are sitting at present, and before whom certain problems are coming up for decision. In the meantime, we do not desire that the work of this Committee should either be stopped or delayed in any manner, and therefore the suggestion that we make is that the agenda for this Committee should be arranged in such a manner that while Your Excellency, on behalf of this Committee, makes the representation that I have respectfully suggested to Your Excellency, to the Prime Minister, the Committee can proceed with the discussion of questions in the discussion of which the Moslem delegates were able to take part in the Round Table Conference, and are consequently able to take part here, and give considered opinions, placing at the end of the agenda matters with regard to which they are able to offer only tentative suggestions.**

**Dr. Shafaat Ahmad Khan :**

I think I should supplement the speech which has been made by Mr. Zafarullah Khan by a few words. Your Excellency



is probably aware that the Moslem community is at the present time very anxious and even restless. It has waited for four years for the consideration of its demands. I myself worked for two years with the Simon Commission, and I have been connected with the Round Table Conference for the last two years. For the last four years my community has been waiting and expecting a decision on points which it regards as of supreme importance to its political individuality. Consequently, the position of members like myself and my other colleagues is getting very difficult and delicate. A very small section, but a section which is assuming importance, is demanding boycott of the Conference, and I am sure if Your Excellency asks the Prime Minister to give us a **decision** on these points, it will bring them to our side. In this connection I may just add one more word. Our community is united at the present time. We have got complete faith in the Conference, in negotiations round a table, and it is from this point of view that I have urged Your Excellency to ask the Prime Minister to give us a **decision**.

**Mr. A. H. Ghuznavi :**

I wholeheartedly associate myself with what has fallen from Mr. Zafarullah Khan, who has so clearly and forcibly placed before Your Excellency the Moslem point of view. In pursuance of Your Excellency's desire, I, like my other colleagues, have done my level best in my humble way to bring about a communal settlement, but I regret to state that all my efforts have failed to advance by one hair's breadth the position of the communal question. It stands where it stood on the termination of the deliberations of the Round Table Conference in England. The difficulties which confronted us in London and stood in the way of a communal settlement, still confront us and stand in our way. In view of the failure of our efforts to reach a decision ourselves, we cannot profitably discuss many of the important and vital questions on the agenda paper until and **unless H. M.'s Government makes an authoritative declaration on the communal question.**

**Mr. M. R. Jayakar :**

That is exactly the question I put. It comes to this, that, until the merits of His Majesty's Government's decision are known, until our Muslim friends know the details of that decision, they will not take part in discussions relating to questions of central responsibility. They are not content with the assurance that His Majesty's Government will decide. They want to know, further, what that decision will be. The position now is that they want to know the merits of that decision, and until they know such merits they are not in a position to take part in the discussion. Of course, the crux of the problem is the Army, central responsibility, and so on. These important questions, our friends say, they are not prepared to discuss wholeheartedly. Of course, they will show us the courtesy of joining in the discussion, but they will not take part wholeheartedly in the discussion until they know what His Majesty's Government will decide. Then I would ask you what is the object of going on with this Committee?

**Mr. N. M. Joshi :**

I do not suggest, Your Excellency, that if the Prime Minister gives his decision to-morrow that decision will be accepted by either the Hindus or the Moslems wholly. But I feel that if Government once gives this decision, the way to a voluntary settlement of the communal question will be easy. (Moslem members: Hear, hear). I therefore feel that the settlement of the communal question should be announced without any delay. In the meanwhile, the work of this Committee should also progress. But I again repeat my regret that whenever we meet for a discussion of constitutional questions we should waste our time in discussing this point, and I hope such an occasion will not arise again.

**Mr. Zafarullah Khan :**

Your Excellency, may I submit one observation? I am afraid there has been some misunderstanding, not only with regard to the reference to provincial autonomy, but also with

regard to the Moslem position. Mr. Jayakar has said that once it is agreed upon that a decision on the communal question should be given by the Prime Minister or His Majesty's Government, it ought to satisfy everybody, and we ought to be able to proceed to the discussion of these questions, as he put it, "wholeheartedly." Now, the position, as I endeavoured to put it, was this—that the Prime Minister or His Majesty's Government would, in any case, have to decide any question not settled by mutual agreement. That is in the nature of things; not only the communal question, but any question on which there is no agreement, His Majesty's Government must decide. If that assurance was necessary, that assurance has been with us from the very beginning. And long ago, even expressly, the Prime Minister announced that if the communities, after making every possible effort, were not able to come to any agreement among themselves, the question must be settled by the British Government rather than that the question of building up a new constitution for India should be held up. So that the mere fact that Mr. Jayakar has been pleased to announce that the British Government may now decide the communal question does not take the matter any further. Even if Mr. Jayakar did not agree, they were bound to decide it. But we are insisting that they should announce their decision, not that they should merely accept the responsibility. It is no satisfaction to us that the question will, in the end, be decided. All questions have, in the end, to be decided.

**Mr. M. R. Jayakar :**

Is it the position of our Moslem friends that in the event of the Prime Minister's decision being adverse to them on any point, all the work which this Committee will do will become useless? Are they going to submit themselves to the decision of the Prime Minister, whether that decision is right or wrong, and are they prepared to go on on that footing, or do they want to keep themselves open to consider the merits and details of that decision, and then say, "On this point the Prime Minister's decision has gone against us, and therefore whatever work we have done in this Committee, we go back on that"?

If that is their position, then I submit that it is better that this Committee should adjourn rather than waste time till we know what the Prime Minister's decision is and whether it is accepted by our Muhammadan friends. Then we should come back and proceed with this work. Do the Muhammadan members want to reserve to themselves the liberty of examining the Prime Minister's decision on the merits and then saying whether they agree or they do not agree?

**Chairman :**

Do you think it desirable at this moment to try and bind down any particular individual to any perfectly clear and definite position? We all know the difficulties. I think everybody is agreed that the Prime Minister should be informed of the sense of this discussion and requested that he should come to a decision on this question as soon as possible. In the meantime, the Muhammadan members of this Committee have agreed to discuss central points, and let me say I think they have also agreed to discuss them with an all-India Federation in their mind. But they do not feel very much disposed until I get a reply from the Prime Minister to discuss certain matters which raise very acutely the communal question.

*Proceedings of the fourth meeting of the Consultative Committee of the Round Table Conference held in the Committee Room in the Viceroy's House, Delhi, at 10-30 a.m. on Wednesday, the 24th February, 1932.*

**Present :**

His Excellency Lord Willingdon (Chairman).

The Hon'ble Sir Henry Moncrieff Smith (Vice-Chairman).

**Members :**

Nawab Liaqat Hayat Khan, Sir Manubhai Nandshankar Mehta, Nawab Sir Muhammad Akbar Hydari, Sir Mirza Muhammad Ismail, Mr. F. C. Benthall, Mr. A. H. Ghuznavi, Mr. M. R. Jayakar, Mr. N. M. Joshi, Dr. B. S. Moonje, Rao Bahadur Sir Annepu Parasuramatlas Patro, Sir Tej Bahadur Sapru,

Dr. Shafaat Ahmad Khan, Capt. Sher Muhammad Khan, M. R. Ry., Rao Bahadur Srinivasan, Sardar Saheb Sardar Ujjal Singh, Sir C. P. Ramaswami Aiyar.

**Dr. B. S. Moonje :**

Sir, before we begin to-day's proceedings, I wish to bring to your notice some misunderstanding that has been created in the Press about our work that we did in the first day's meeting as regards communal settlement between Moslems, Hindus, and Sikhs. I may read out so that Your Excellency may know what misunderstanding has been created.

**Chairman :**

What is that newspaper?

**Dr. B. S. Moonje :**

It is the "Hindustan Times" of to-day. It has written a big leader on the subject. I think that matter will have to be cleared up officially.

**Chairman :**

I do not know what the "Hindustan Times" says.

**Dr. B. S. Moonje :**

I am just bringing it to your notice. It means to say that the settlement of the communal problem has been referred to the Government for arbitration. It is on that point. The position in London in regard to this question was that a proposal was made by Sir Chimanlal Setalvad in the Minorities Committee that the question be referred to arbitration by the Prime Minister, and the Prime Minister also accepted the proposal, saying that if all were agreed he would be pleased to arbitrate in the matter. Then, of course, certain letters were written to him by certain members of the Committee. I do not know all the letters that had been written to him. At least in the one that I signed I agreed to the arbitration of the prime Minister and not by the Government. The question referred to him for arbitration was concerning the Hindus, Sikhs and Mussalmans.

There was no question of arbitration by the Government. It was a question of arbitration by the Prime Minister in his individual capacity. That is the misunderstanding that has been raised in the press. The paper says: "It would have been better if, instead of entrusting the task of arbitration to His Majesty's Government, the members had accepted the offer of the Premier, made in London, to permit him to announce a settlement." The misunderstanding is that we in that day's meeting have agreed to the arbitration of the Government, while the fact is that we have agreed to the arbitration by the Prime Minister and only await the decision of the Prime Minister and his announcement.

**Chairman :**

I have got the official *communiqué*.

**Dr. B. S. Moonje :**

That is the source of misunderstanding. That is exactly the point. In the Round Table Conference it was decided that it was the Prime Minister and not His Majesty's Government. And we wrote letters to the Prime Minister.

**Sir Tej Bahadur Sapru :**

That is so. It was the Prime Minister.

**Dr. Shafaat Ahmad Khan :**

The Muslim Delegation never mentioned the word "arbitration". We have said all along that it is for His Majesty's Government to give a decision. Of course, we never asked for arbitration.

**Sir Tej Bahadur Sapru :**

What was said was that the Prime Minister would give a decision.

**Captain Sher Mohd. Khan :**

The Prime Minister as the head of the British Government.

**Mr. M. R. Jayakar :**

*As Prime Minister.*

**Dr. B. S. Moonje :**

*If the Prime Minister's speech is referred to, the point will be cleared up?*

**Chairman :**

Dr. Moonje, what is your position with regard to this?

**Dr. B. S. Moonje :**

I think, Sir, as I remember now, Sir Chimanlal Setalvad made a proposal—it will be found from the Report—at the Round Table Conference and the Prime Minister in his speech referred to that proposal and so far as I remember now he said that all parties were agreed that he should give a decision.

**Chairman :**

What is your position at this moment?

**Dr. B. S. Moonje :**

That portion in the *communiqué* which represents that His Majesty's Government should give a decision is not in accordance with what was said at the Round Table Conference and therefore it is causing misunderstanding outside. Therefore that point has to be cleared up.

**Dr. Shafaat Ahmad Khan :**

There is no difference at all for all practical purposes between the Prime Minister and His Majesty's Government. If we ask the Prime Minister, he will give a decision on behalf of His Majesty's Government. We are not asking Mr. MacDonald; we are asking the Prime Minister as the head of the Government. I do not see any difference at all for all practical purposes. Again, we are not asking for his arbitration; we request the decision of His Majesty's Government.

**Dr. B. S. Moonje :**

Whatever that explanation may be, if you read the speech of the Prime Minister, he makes a distinction on that point. He says "If you refer the question to me, if all parties refer the question to me," something like that.

**Sir Tej Bahadur Sapru :**

Your Excellency, so far as my recollection goes, what was agreed was that the Prime Minister should give his decision. There was no reference to His Majesty's Government. What was done was that the Prime Minister was invited to give his decision and to that extent the *communiqué* requires to be corrected. It is a different question whether if this is corrected the "Hindustan Times" will change its view or will be more complimentary to Dr. Moonje or anyone of us.

**Sardar Sahab Sardar Ujjal Singh :**

Dr. Moonje appears to be labouring under some misunderstanding. In the Minorities Sub-Committee the Prime Minister undertook to decide that question if all the communities submitted it to him for arbitration. That was entirely a different thing. Some members did send him letters on behalf of their respective communities, but the offer was not accepted by all. Now, we have agreed to submit the matter to the Prime Minister or to His Majesty's Government for **decision**. That is in accordance with the last speech of the Prime Minister. **There is no question of arbitration now.**

**Dr. B. S. Moonje :**

If that is so, I do not agree that it was universally accepted because my position has always been that the Government should not decide this question and should not undertake the responsibility of deciding this question; it should be decided by arbitration. That has been my position from the very beginning and I only agreed, as will be seen from the reports of the Round Table Conference, to the Prime Minister arbitrating on this question. You will see that in the speech of the Prime



Minister. That portion of his speech where he has replied to Sir Chimanlal Satalvad may be read. Sir Chimanlal made a proposal and in response to that he made a speech in the Minorities Committee. In accordance with that speech we gave him certain letters agreeing to his deciding the question.

**Chairman :**

I am advised that at that time the Prime Minister made an offer as Chairman of the Committee, but that was not accepted.

**AWARD AND PACT : A CASE FOR  
RECONSIDERATION.**



## **AWARD AND PACT: A CASE FOR RECONSIDERATION.**

In view of the failure of the Communities of Bengal to arrive at an agreement among themselves, the Communal Award was made by the Prime Minister. Under this Award Christians are given 31 seats, although they would be entitled to only one on a strict population basis. These extra seats are no doubt awarded to them on grounds of special educational qualifications, or of their importance in administration, commerce and public life, etc., but the result is that the 30 extra seats must come out of those which otherwise would be given to Hindus and Mahomedans. What is proposed is to carve out those seats entirely from the share of the Hindus.

Next, to deal with the Mahomedans, the highest claim that can be made for them is an allocation which:

(i) Counts heads, including the heads of infants.

(ii) Pays no attention in the case of Hindus to any of the factors which justify giving seats to Christians on a basis other than that of counting heads.

On the above principles, and accepting every contention which can be legitimately put forward, the Mahomedan seats should be reduced. The Mahomedans have been given 119 seats, compared with 80 given to the Hindus, or 50 per cent. in excess, while the two communities roughly form 55 and 45 per cent. of the total population, respectively.

If Parliament gives the Communal Award the binding sanction of law, it is inevitable that this injustice will be perpetuated, because the Award provides that "Provision will be made in the constitution itself to empower a revision of this electoral arrangement after ten years with the assent of the Communities affected, for ascertainment of which suitable means will be devised."

Is it likely that any section which has obtained too advantageous an award will assent to its modification?

### **The Poona Pact.**

The Poona Pact was a decision arrived at to determine the apportionment of the 80 seats for Hindus, whereby 30 of the 80 seats were awarded to the Depressed Classes.

It is contended:

“(a) That this Pact was an irregular one. It was made without consultation with the Bengal Hindus, and no Bengal Hindu has signed the Pact. It gives an unduly large number of seats to the Depressed Classes.

(b) That no allocation of seats as proposed under the Poona Pact can be made without the assent of all parties affected. This was the principle laid down in the Communal Award, and should obviously equally apply to any modification or amplification of that Award as proposed in the Poona Pact.

It is submitted that Parliament has complete freedom to vary or to reject the Communal Award. The Federal Structure Committee, in its Second Report, said:

“It must be clearly understood that, though agreement has been reached by a majority on many important matters, such agreement is only provisional.”

A decision by the Prime Minister on a question over which the parties disagreed can have no higher value than any decision based on agreement between the parties.

In any case the Poona Pact does not represent an agreement between parties, which is the condition precedent provided for in the Award for its modification. It is impossible to expect peace in Bengal if the most influential Community suffers from a serious and legitimate grievance—a rankling sore with millions of those Hindus who have no connection with Terrorism or crimes of violence.

# **TRUTH ABOUT POONA PACT AND HOW IT AFFECTS BENGAL.**



## TRUTH ABOUT POONA PACT AND HOW IT AFFECTS BENGAL.

[The following memo was circulated at the instance of (1) Hindu Sabha, (2) British Indian Association and (3) Indian Association of Calcutta.]

1. 17th August, 1932.—Prime Minister's Communal decision which provided as regards Bengal:—

(a) Depressed classes would vote in general constituencies in common with the rest of the enfranchised non-Muslim population;

(b) Number of seats not exceeding ten to be reserved for them;

(c) Arrangement to end after 20 years;

(d) The decision provided it could be modified by mutual agreement of parties concerned.

2. The depressed classes raised no objection to the award.

3. Mr. Gandhi objected to the award on the ground, as he expressed it, that the provision of separate electorate for the depressed classes would have the effect of "disrupting and vivisectioning Hinduism."

4. 18th August, 1932.—Mr. Gandhi's letter to the Prime Minister: "This fast will cease if British Government of their own motion or under pressure of public opinion revise their decision and withdraw their scheme of Communal electorates for the depressed classes, whose representatives shall be elected by general electorate under common franchise."

5. 8th September, 1932.—Prime Minister's letter pointing out that his scheme had not separated the depressed classes from the Hindu Community, but had given them a few special seats to provide them with a minimum number of spokesmen.

6. 15th September, 1932.—Pandit Malaviya called a Conference to be held at Delhi on the 17th and 18th September. The invitation was stated to be "To a few friends."



7. 20th Septetmber, 1932.—“Fast Unto Death” begins.

8. 16th September, 1932.—Pandit Malaviya announced that the venue of the Conference had been changed to Bombay, and he requested “His friends who had been invited to note the change, and make it a point to attend.”

It appeared later that Pandit Malaviya had invited by telegram one Bengali Hindu only, viz., Mr. Ramananda Chatterji, who had immediately wired back that it was impossible for him to attend as he was proceeding to Malda to preside over a Conference.

9. 22nd September, 1932.—Newspapers announce that Dr. Ambedkar had asked for 197 seats in the Provincial Councils in the place of 71 given by the Prime Minister.

10. 24th September, 1932.—Mr. Gandhi’s condition announced to be serious.

11. 25th September, 1932.—Pact signed at Poona.

Among the numerous signatories to the Pact, there is no Bengal Hindu. In fact, in making the case of “default” against Bengal Hindus, the main plank is their absence from the Conference.

### **Provisions of the Poona Pact.**

(a) Thirty seats to be reserved for depressed classes, such reservation to continue until determined by mutual agreement.

(b) Depressed class voters on the general electoral roll should form a separate electoral college for choosing four nominees for each seat.

(c) That subsequent voting should be confined to the said panel of four nominees in each Constituency.

(d) Agreement to end after ten years.

12. 26th September, 1932, 11 a.m.—Home Member announced at Delhi the acceptance of the Pact by His Majesty’s Government, and that “His Majesty’s Government had learned with great satisfaction that an agreement had been reached

between the leaders of the depressed classes and the rest of the Hindu Community."

The depressed classes in Bengal have got reserved for them 30 seats, but they are allowed to try for other seats as well. In some parts of North Bengal and of East Bengal the depressed classes form the bulk of the population. At present they have secured seven seats. With enlarged franchise and in a larger house they can count upon 12 to 14 seats.

Consequently, from general constituencies the Hindus (other than depressed classes) cannot expect more than about 35 seats as against about 45 seats or more of the depressed classes.

Hindus already badly hit by the very unfair division of seats as between themselves and Mahomedans, have been almost finished by the Pact.

If the proposed allocation is allowed to stand, the unrest now prevailing in Bengal will be seriously increased by bitter hostility and resentment of the Hindus smarting under grave injustice. Nothing will please the Terrorists more than the starting of the new Constitution under the proposed plan. They will effectively point out that Hindus will have no voice in the Government.

Those who are anxious for co-operation with the British and prepared to work the Constitution, are not in a position to say to the Terrorists, or their sympathisers: "Why pursue the path of the bomb and the revolver? You have got provincial autonomy, now run the Government departments, and work through the Legislature."

(i) **Is the Poona Pact Binding on Bengal Hindus, Assuming they had "Defaulted"?**

(ii) **Has there been Default?**

No Bengal Hindus have signed the Pact, but it is said that they are bound as they have defaulted.

The relevant facts are as follows:—

(i) The Bengal Legislative Council had its first session after the Pact in November, 1932, and during this month twenty-five members of the Bengal Legislative Council sent to Sir N. N. Sircar, who had then come to London for the third Round Table Conference a telegram for being forwarded to the Prime Minister, which stated, *inter alia* :—

“Representation from twenty-five members of Bengal Legislative Council. Poona Depressed Classes Pact made without consulting Bengal Hindus.”

This was, before being sent to the Prime Minister, shown to Dr. Amedkar, who thereupon telegraphed to India and got a reply, which stated, *inter alia* :—

“Regarding Bengal Hindu friends’ cable for revision Poona Pact for Bengal. They have defaulted twice. Once before Lothian Committee, when they failed to give list of depressed classes.

“Second, when invited to Bombay, September Conference, nobody responded. Now they raise false cry. Besides, they are unjustifiably afraid of Namasudras appropriating all seats.”  
—BIRLA AND THAKKAR.

This telegram being communicated to India, all the Bengal non-Mahomedan representatives present in the Central Legislature at Delhi sent the following telegram to London :—

“Birla’s cable to Ambedkar. Birla not acquainted with conditions in Bengal and has absolutely no representative character there. Poona Pact in allowing thirty seats to depressed classes in Bengal, number being equal to seats allowed to Madras, cannot be justified. Question of depressed classes in Bengal is certainly not acute, and is absolutely different from that in other Provinces. Premier’s award is the utmost that Bengal can accept.”

The above was the reply from members of the Central Legislature at Delhi. Bengal members sent a telegram, which stated, *inter alia* :—

“Bengal M.L.C.’s, who wired previously, state that Birla and Thakkar cabled misrepresentations. Bengal representatives

not invited to Conference leading to Poona Pact. Its terms astonished Bengal. Not being agreed according to Premier's formula, settlement cannot bind Bengal."—Chatterjee and Others.\*

\*The two defaults alleged are:—

(1) Default before Lothian Committee.

(2) Default in attending September Conference.

As regards (1):

It is incorrect as a statement of fact, and in any case it is wholly irrelevant to the issue as to the number of seats to be reserved. If there was "default," Bengal Hindus have already suffered for it as the Prime Minister's decision was after the "default."

As regards (2):

(a) Only one Bengal Hindu received a telegram from Pandit Malaviya, who had immediately replied that he could not attend as he was proceeding to Malda. The fact of the telegram to Chatterji was nowhere published. The fact became known long after the event.

(b) It appears that on the 16th September the venue had been changed, and the meeting of "a few friends already invited" on the 15th for the meeting fixed for the 17th and 18th at Delhi, was actually held at Bombay on the 19th.

(c) At the highest, if Bengal Hindus "defaulted," that can only mean they were not at Bombay or Poona to come to an agreement. They were not bound to come to any agreement, and if they had not agreed, the Premier's decision cannot be modified by the Poona Pact.

---

\*The above telegrams and Sir N. N. Sircar's letter to the Prime Minister will be found printed at pp. 31—35 of this work.



**WHO ARE THE DEPRESSED CLASSES  
IN BENGAL ?**



## WHO ARE THE DEPRESSED CLASSES IN BENGAL?

[The following pamphlet was prepared from the writings of Mr. Hirendra Nath Datta, President, Hindu Sabha of Calcutta, and of Sir N. N. Sircar, Advocate-General of Bengal, and circulated by Sir N. N. Sircar at the instance of (1) Hindu Sabha (2) British Indian Association, and (3) Indian Association of Calcutta.]

(1) When the Poona Pact was arrived at under the threat of "Fast Unto Death," it was assumed that the depressed classes numbered  $7\frac{1}{2}$  millions, the figure provisionally mentioned in Franchise Committee's Report on the basis of "Untouchability."

(2) The Franchise Committee asked the Local Government to "examine the varying figures", but all based on untouchability.

(3) The depressed classes may be made to number any figure between .07 millions to 11 or 12 millions, depending on the definition of "depressed classes."

(4) Mr. Thompson, in his census report, made the following statements:—

"(a) The expression 'Depressed Classes' has, however, attained a political significance, enhanced recently by the provision for their special representation in the Legislative Council. What are the depressed classes does not seem to have been defined when the Reformed Legislature was constituted.

"Up to this time many of the more advanced among the backward classes had been trying to raise their status by changing the nomenclature of the castes. Thus the Chandals became Namasudras and wanted to be Brahmans. Many, including the Rajbanshis, became Kshatriyas, and so on. The tide began to turn as soon as it was fully realised that there were to be substantial special privileges for the depressed classes. Those who were trying to rise up hastily



commenced climbing down. The Rajbanshis all along had resented being classed as backward, but they now want to be included in the depressed class list, but up to 1921 they had made no such claim, and they still maintain they are backward, but not depressed.

“(b) The claim (of Rajbanshis, who number 1½ millions) to be included within “depressed classes” is clearly incompatible with an insistent demand to be given the consideration of the second twice-born Varna, and can only be interpreted as evincing a desire to run with the hare and hunt with the hound.”

(5) While the Government was asked to prepare a list of castes applying the criteria of Untouchability, the Bengal Government had prepared a list of 86 scheduled politically and socially backward classes. The Government admitted, in answer to interpellations, that they had applied no criteria of Untouchability [neither those laid down by the Franchise Committee, nor any other.]

(6) The Government of Bengal, having published its list of 86 scheduled castes (which has been incorporated in the White Paper as “Provisional”), over three hundred petitions have been put in from different quarters against inclusion in the list.

(7) Applying the criteria laid down by the Franchise Committee or any modified formula for ascertaining depressed classes, it will be difficult to make up four, or even three, millions, and as the Premier’s award gives them 10 seats, and they are bound to get 12 or 14 seats more, the depressed classes will have proportionally to their population more representation than any other community, except the European community.

(8) If the proposals contained in the White Paper stand, it will mean nothing to the really depressed classes, but the Council will be swamped by the well-organised and advanced Namasudras and Rajbanshis, who have no claim whatsoever to come under depressed classes.

(9) As the depressed classes will get 12 to 14 seats at least, apart from reserved seats, if they retain the seats given by the Prime Minister's decision, viz. 10, they will have 22 to 24 seats.

In Bengal, for the general constituencies, 199 seats have been allowed to a population of 50 millions, i.e., four seats for every million, and consequently the depressed classes have got under the Premier's decision more than their proper quota.

[As the two castes, Namasudras and Rajbanshis, account for nearly four millions, some interesting facts relating to them are given below.]

### NAMASUDRAS.

(1) Paras. 828 and 832 of the Census Report of Bengal show that in 1911 they claimed to be Brahmins. The District Gazetteer shows that they still claim descent from Brahmins. They have been claiming this since at least 1901.

(2) "It is a progressive caste in more than one way. It has grown steadily and largely, while other Hindu castes had only slight increases. Its members have also done much to improve both their economic and social status. Formerly a man of this caste, when asked, replied Chandal or Charal, and they are generally known as Chandals.

"As their circumstances and education improved, they began to adopt the more honorific name of Namasudra, which received official recognition, for, on account of the resentment which the name Chandal aroused, they were entered in the Census Table of Castes as Namasudras or Chandals in 1891, as Namasudras in 1901, 1911 and 1921. For some generations they have shown sturdy independence. In 1873 they proclaimed a general strike, refusing to serve any of the upper classes in whatever capacity unless a better position in the hierarchy of castes was accorded to them. . . . They have also taken up education as a means of advances with real earnestness, and are steadily progressing in that respect."—District Gazetteer of Faridpur by O'Malley.

"The Namasudra is in fact proud of his caste. No Namasudra would be likely to conceal his caste from the enumerator. . . . The awakening of political consciousness among the Namasudras is a recent phenomenon which is likely to have a considerable political importance in the future. Already Namasudra members have been returned to Bengal Council, and the Namasudra candidate has been in evidence at the elections in this district."—Mr. Fawcus, Settlement Report of Khulna (1908).

"It should be stated, as a community, the Namasudras show considerable aptitude for organisation, and that the ideals pursued are praiseworthy. As an instance of this may be mentioned a Conference recently held (March, 1908), which was attended by Namasudras from Khulna, the adjoining districts and some districts of Eastern Bengal. From the published reports, it appears that its objects were the spread of education, the establishment of a permanent fund and the removal of social evils."—O'Malley's District Gazetteer of Khulna (1908).

"The Namasudras are very particular as regards caste prejudices. They never allow a European to stand or walk over their cooking place, on board a boat, and if any one inadvertently does so while the food is being prepared it is at once thrown away."—O'Malley's District Gazetteer of Jessore (1912).

"In Jessore and Khulna the Namasudras now claim Brahman descent."—*Ibid.*

"The Namasudras are not only the most numerous, but also one of the most interesting castes in Jessore, owing to their independence and self-reliance and their efforts to rise in social state."—*Ibid.*

"More recently there has been considerable bad feeling between Namasudras and Mahomedans, which has culminated in serious riots over a considerable area. While the Namasudras have become more self-respecting, they have become more self-assertive, and the resultant friction between them and other communities has led to a good deal of turbulence."—*Ibid.*

## RAJBANSHIS.

(1) "A most persistent agitation was carried on by the Rajbanshis of North Bengal with the object of being recognised as Kshatriyas by descent."—Para. 835, Census Report of 1911.

(2) Since the inauguration of the Reforms in 1919 they have succeeded without interruption to get themselves returned to the Legislative Council.

In 1920, of the two Hindu members elected, one was a Rajbanshi.

In 1923 election, in spite of Swarajist opposition, one Rajbanshi (Roy) was returned, and another (Rai Saheb Barma) was defeated by a very narrow majority.

Since then, in every election, both the Hindu seats in Rungpore were captured by Rajbanshis, to the exclusion of so-called higher castes.

In Local Boards too, they are getting returned. They call themselves Brahman, which is the surname for Kshatriyas, and generally wear the sacred thread. They are finding occupations as Pleaders, Mukhtears and Teshildars in Zemindary estates. Education is spreading among them and they are well-organised. They are represented both by election and nomination on Local and Union Boards throughout the district of Rungpore.

The following is an extract from the Census Report of 1931 :—

"As early as 1901 the Rajbanshis were reported as to some extent Jalchal, that is, considered of sufficiently elevated social status to offer water to the higher castes, and their position has by no means deteriorated since then. It is certain that no caste can be depressed which is Jalchal. The claim to be included within the depressed classes is clearly incompatible with an insistent demand to be given the consideration of the second twice-born Varna and can only be interpreted as evincing a desire to run with the hare and hunt with the hound.

**"Both their present social position and their numbers in the areas to which they are practically confined justify their exclusion."—Census Report of 1931, Vol. 5, Part I, pp. 500-01.**

These two highly organised and progressive castes are found in compact geographical areas, where they form the bulk of the population. The result has been that, even in the existing Council, they have secured seven seats. With franchise increased eight times and the Council enlarged, they can count on 12 or 14 seats or thereabouts, in addition to seats reserved for them.

These castes observe Untouchability as regards the really depressed classes like Muchis, who cannot enter the houses, touch the food or drink of the former without causing pollution. Schools and other institutions of the really depressed classes have been started and are being maintained by caste Hindus.

# **ALLOCATION OF SEATS IN BENGAL PROVINCIAL LEGISLATURE.**



# ALLOCATION OF SEATS IN BENGAL PROVINCIAL LEGISLATURE.

## Calculations on Various Methods of Proportion of Seats.

General Note.—The Census Commissioner for 1931 points out, as was done in connection with previous Censuses, that the Muslim population in Bengal has much larger number of infants than the Hindu. Taking the figures in the Census of 1931, males over 20 in the Muslim population of every 10,000 are 4,808; the corresponding figure for Hindus is 5,421; while taking all religions, the figure is 5,082. The proportions of Muslims and “general” population (i.e., Hindus and others, which in Bengal means practically Hindus), are:—

Total population—

Muslims=54.8 per cent.; General=44.8 per cent.

Adult population—

Muslims=51.3 per cent.; General=48.3 per cent.

## Proposed Allocations.

Seats allotted in the “White Paper”\* are:—

General	...	80	} This 80 is for all Hindus, including Depressed Class Hindus.
Muslims	...	119	
Indian Christians	...	2	} 51 Special Seats. Out of 19 seats for Commerce, etc., 14 are for Europeans, 5 for Indians.
Anglo-Indians	...	4	
Europeans	...	11	
Commerce, Industry,			
Mining, Planting	...	19	
Landholders	...	5	
University	...	2	
Labour	...	8	



Thus the total 250 is made up of 119 Muslims, 80 Hindus and 51 Special Seats.

## I.

Seats which cannot come to Hindus or Mahommedans are : Europeans (11 and 14) 25 ; Anglo-Indians 4 ; Christians 2 ; = 31 Seats.

Out of 51 seats, therefore, only 20 can be divided between Hindus and Muslims. It is not expected that Muslims will get a majority out of these 20 seats. A fair calculation will be to take 11 seats for Hindus and 9 for Muslims.

In calculations made below, however, 12 seats will be taken as going to Hindus and 8 only to Muslims.

## II.

Leaving 51 Special Seats alone—there are left 199 seats to be divided between Hindus and Muslims. On the proportions of adult population 51.3 and 48.3—

Hindus should get	...	...	96.5
Muslims should get	...	...	102.5
Say, Muslims 103	...	Hindus	96.

Therefore, 16 seats too many have been allotted to Muslims, as they have been allowed 119 seats.

## III.

If the 199 seats are divided in proportions of total populations (54.8 and 44.8)—

Muslims get	...	...	...	109
Hindus get	...	...	...	90

Therefore, 10 seats in excess have been allotted to Muslims.

## IV.

Communalism can have no place in the Special Seats, like Commerce, Mining, etc. Europeans, it is presumed, have been given so many Special Seats, not because they are Europeans, but on account of their position in trade, etc. Ignoring this

contention for the time being; results are being given of dividing 219 seats (i.e., 199 General Seats plus 20 Special Seats) proportionately—

## (A)

Muslims	... 113	on basis of adult population.
Hindus	... 106	

Assuming 8 and 12 seats have come out respectively from the 20 Special Seats—

Proper number for Muslims ... 105 General Seats

Proper number for Hindus ... 94 General Seats

Therefore, an excess of 14 has been allotted to Muslims.

## (B)

Dividing 219 seats on proportions of total populations—

Hindus get ... 99

Muslims get ... 120

Considering the way in which the 20 seats are likely to be divided, viz., 12 for Hindus and 8 for Muslims—

Proper Share of Muslims ... 112 General Seats

Proper Share of Hindus ... 87 General Seats

Therefore, 7 seats have been allotted in excess to Muslims.

## V.

It is contended :—

(a) Special Seats should not be divided on communal lines.

(b) Adult populations, and not total populations, should be considered.

## VI.

If the proportions of adult populations are 51.3 and 48.3, but Muslims have got 50 per cent. more than Hindu seats, viz., 119 and 80 seats, respectively, what is the explanation? The only possible explanation is that 51 seats having been carved out of the total 250, in the balance which is left—

Muslims have been given 119 out of 199, i.e., 60.0 per cent.

Hindus have been given 80 out of 199, i.e., 40.1 per cent.

## VII.

Again, if the seats which cannot be touched by Hindus or Muslims, i.e., 31, are left out and the remaining, viz., 219, are considered, it is proposed to give to Muslims (119 plus 8) or 127, i.e., 58 per cent., and to Hindus, 42 per cent.

## VIII.

It is sometimes urged that Muslims in Bengal, who form 54.8 per cent. of the population, will get only (119 plus 8) i.e., 127 seats in a house of 250, i.e., only 50.8 per cent.

This has been described sometimes as "Sacrifice" of 4 per cent.

The merits of this argument can be judged by considering this matter from the Hindu point of view:—Hindus get (80 plus 12) i.e., 92 seats in a house of 250. This is 36.8 per cent.

If "sacrifice" is an appropriate word, the Muslim "sacrifice" is 4 out of 55, i.e., 7 per cent., while Hindu "sacrifice" is 8 out of 45, i.e., about 18 per cent.

## IX.

Christians form .4 per cent. of the population, but 31 seats are kept for Europeans, 4 for Anglo-Indians, and 2 for Indian Christians. The propriety of these numbers is not questioned for calculations in this note. This 31 must come out of seats which would otherwise have gone to Muslims and Hindus.

If this 31 is contributed rateably by Muslims and Hindus according to the proportions of total populations, Muslims have to find 17 seats from their share, and Hindus 14 from theirs.

If the Muslims are given 54.8 per cent. in the whole house, they should get 137 seats altogether. They are getting 119 plus 8 and have consequently given up 10 seats on this basis.

If Hindus are given 44.8 per cent. in the whole house, they should get 113 seats. They are getting (80 plus 12) i.e. 92, at the most, and consequently giving up 21 seats.

In other words, Muslims contribute 10 out of 137, and Hindus contribute 21 out of 113.

On this basis the "sacrifices" are 7 and 16 per cent., respectively, for Muslims and Hindus.

It is contended, however, that this calculation is really useless, as the question of giving 55 per cent. and 45 per cent. in the whole house to Muslims and Hindus cannot arise unless the seats meant for Europeans, Anglo-Indians and Christians are altogether wiped out, and they are asked to take one seat in the whole house instead of the 31 proposed for them.



**A NOTE ON BENGAL TERRORISM  
AND BENGAL FINANCES.**



## **A NOTE ON BENGAL TERRORISM AND BENGAL FINANCES.**

**(Circulated at the instance of the British Indian Association and  
the Indian Association of Calcutta.)**

The most acute and the most crucial question in Bengal relates to her finances. The political disturbances from which Bengal has suffered are mainly due to her financial condition. She has for several years been run as a deficit province—not from want of natural resources, but on account of her being deprived of them. Dyarchy failed in Bengal because the Ministers could achieve nothing in the beneficial and nation-building departments. Treated financially in the same way as Madras, there is no reason for concluding that Dyarchy would have failed in Bengal. The Bengal Government and all classes in Bengal have cried themselves hoarse over the inequitable financial treatment, but they succeeded only in securing sympathy and not relief. For the first time in 1932 the Federal Finance Committee recognised this fact and thereupon recommended that she might be given half of what ought to belong to her, *viz.*, the export duty on Bengal jute.

At first sight, no connection may appear between financial settlement and the Terrorist Movement, or the generally disturbed condition of Bengal, or extra expenditure on Police and Jails.

Looking below the surface, it is fairly obvious that Dyarchy failed in Bengal, and general discontent and unrest increased, because her Ministers, having no available resources, were unable to achieve anything in furtherance of the beneficent activities of Government.

For years the agitator has effectively stated it to be the fact that the people have been living under a callous Government, indifferent to the welfare of the people, and unable or



unwilling to take any step for their amelioration. For years literature, seditious and otherwise, has aroused disaffection by painting the picture of a foreign Government which requires money only for salaries and pensions of the Civil Service, for the Army, Jail and Police, but which does not move its little finger for improving the condition of the people.

While the real terrorists are comparatively few, the movement has become formidable by reason of the sneaking sympathy of a much larger section, who abhor bloodshed, but whose bitterness to the Government has progressively increased owing to its inability to show anything to its credit for improving their condition. The general atmosphere had been steadily getting more and more favourable for subversive movements.

Sir John Anderson has often stressed this point in his public speeches, and his view is shared by all communities in Bengal. The statement in his Dacca speech (July, 1932) that Provincial Autonomy "will fail and fail disastrously in this Province if Bengal finances are not put upon a satisfactory footing" is a truism and not the cry of an alarmist.

This aspect of the matter requires careful consideration from a wider and All-India point of view, when the White Paper proposes to subject Bengal to discriminate treatment, and when Bengal has been selected, to the exclusion of other provinces, for taking away from her a substantial portion of her provincial revenue derived from her staple agricultural crop.

If an export duty on one of the principal agricultural crops of Bengal were to be introduced for the first time, after the starting of Federation, it cannot be questioned that it could not be allocated to the Federal Centre, just as her land revenue could not be treated as Federal income. If that is so, there is no justification for a different treatment in respect of a duty which was imposed and appropriated to the Centre, under the exceptional conditions of the war period, at a time when the constitutional position was one in accordance with which the

revenues of India, whether spent for Central or Provincial purposes, were treated as one unit, completely at the disposal of the Government of India. The position becomes entirely different under a Federation, where the units should receive uniform financial treatment.

A very superficial and uninformed criticism is often made that Bengal has only got to get rid of the Permanent Settlement to end her difficulties.

The fact that most solemn pledges had been given by the then Central Government, and that reliance on those pledges has resulted in an extraordinarily long and complicated chain of sub-infeudation—all such considerations cannot be ignored. Treating, however, those solemn pledges as mere scraps of paper, the matter may be considered from the strictly business point of view.

The introduction of the Permanent Settlement, and the various Tenancy Acts which followed it, have enabled the Bengal tenant to pay rent at a low level. One has only to compare the low rent paid by him with those paid in other Provinces. If the tenant is rack-rented, he cannot possibly bear the burden of the Jute Export Duty which really means an addition to the Land Revenue. Had there been no Permanent Settlement, and no special taxation on Jute, the rent of the tenant would have been greatly enhanced and Bengal would have enjoyed a corresponding increase in Land Revenue.

Provinces which are temporarily settled have been able to reap the benefit of the development of the crops peculiar to each—wheat, cotton, ground-nuts, whatever they may be.

The benefit from Jute, the peculiar crop of Bengal, has been taken, not by Bengal, through enhancement of the Land Revenue, but by the Central Government, through an Export Duty.

Between the years 1912-1913 and 1925-1926 the temporarily settled Provinces obtained increases (which from 1921 went into their own pockets) of land revenue, varying from Rs. 21,00,000 (Assam) to Rs. 1,42,00,000 (Punjab), against an increase in

Bengal of just over Rs. 8,00,000—but in the year 1925-1926 the Government of India received Rs. 3,64,00,000 from the Jute Export Duty, some 99 per cent. of which was attributable to Bengal.

There is an idea prevalent outside Bengal that zemindars are enjoying unearned increments, and that the abolition of the Permanent Settlement means only the getting rid of this unjustified gain.

This is erroneous, as, since the Permanent Settlement, most zemindaries have been transferred and in such transfers the valuation for the purchaser has generally been fixed at 10 years' purchase, and sometimes as high as 35 or 36. In fixing the valuation, the income is arrived at by deducting from the gross income the Government revenue and cesses payable for the zemindary, and some amount for collection and litigation charges. The present holders, consequently, do not stand on the same footing as the original grantees, and have paid for their zemindaries on the footing of the Government revenue being permanently fixed.

Throughout Bengal most of the zemindaries have been subjected to an elaborate process of sub-infeudation as a result of Patnis, Mokarraries, Gantis and various other kinds of tenures and sub-tenures. Throughout this long chain transactions have proceeded upon the footing of the Government Revenue being fixed for ever.

Is it proposed to confiscate the interests of all these classes of people? If not, and if compensation has to be paid to those whose vested rights will be taken away, or affected by abolishing the Permanent Settlement, the profit to the State will not be worth having, considering the price to be paid for such abolition, the disturbance of rights which will affect millions, and the increased charges of collection for the State.

The percentages of total Provincial Revenues which are retained in the Provinces are:—

Bengal	...	...	...	30.3
United Provinces	...	...	...	78.4

Madras	...	...	...	69.5
Bihar and Orissa	...	...	...	92.8
Punjab	...	...	...	85.9
Bombay	...	...	...	40.7
Central Provinces	...	...	...	90.1
Assam	...	...	...	85.4

While slight corrections are necessary, as some part of Custom Revenue from maritime provinces is attributable to those inland, and a smaller portion of revenue from taxes is similarly attributable—yet the figures bring out clearly the condition of Bengal due to no shortcomings of her own—a fact, as already stated, recognised for the first time at the third Round Table Conference.

The terrorists are all recruited from the ranks of Bengal Hindus—mostly students in schools and colleges—and it is unfortunate that proposals in the White Paper, it is respectfully urged, are grossly unfair to Hindus in the matter of allocation of seats in the Legislature. Equitable treatment of Bengal Hindus and of Bengal finances are essential for restoring peaceful conditions in Bengal.

#### SUMMARY OF SALIENT FACTS AND CONTENTIONS.

(1) About 99 per cent. of the total Export Duty (if Burma is separated) raised in British India is referable to Bengal Jute.

(2) Since 1916, when this Duty was started as a war measure, the Central Government has raised over Rs. 50 crores from Bengal Jute, and when Federation is started some rectification of this injustice is necessary.

(3) Jute is a staple crop, grown in a definite geographical area, namely, Bengal, and in a small area in neighbouring provinces.

(4) The Duty, as has been pointed out by the Bengal Chamber of Commerce, is now borne by the grower.

(5) In its incidence and character, the Jute Export Duty has no resemblance to Import Duty. It is, in fact, revenue

from land—a source which has been classed as Provincial Revenue in the “White Paper” and in the reports of all the Committees.

(6) Like financial treatment of different units ought to be the fundamental basis of a Federal Constitution, and has been recognised by the Peel Committee. Depriving Bengal of the income from the staple crop of the Province amounts to discriminatory legislation.

(7) The criticisms (a) that Bengal can easily get rid of the Permanent Settlement, and (b) that this will bring substantial relief to the Province, are unfounded. In any case, a possible increase of revenue by the abolition of the Permanent Settlement cannot justify the deprivation of Bengal of her Provincial Revenue.

(8) The taking away of a large block of Income-tax Revenue, as contemplated in paragraph 58 of the White Paper proposals, already involves placing disproportionate shares of the Federal burden on Bombay and Bengal, as these two Provinces contribute the bulk of the Income-tax.

(9) The incidence between the Provinces in connection with the distribution of Income-tax should be put on an equitable basis.

(10) The Provincial Finances of Bengal and her prosperity depend mainly on the Jute industry, while the Federal Government's interest in it will be indirect and comparatively remote.

(11) If, for Federal solvency, as an emergency measure during the initial period, a portion must be taken out of the Jute Export Duty, the principle laid down in paragraph 58 of the Introduction in the “White Paper” should be followed, and a part of the duty, not exceeding half, should be taken for a limited number of years.

(12) The problem of Bengal's finances should not be approached from the narrow point of view of its being merely a question of Provincial finance. The inadequacy of her resources during the past 12 years has led to political repercussions in

other parts of India, and the very heavy expenditure in Bengal itself, particularly upon the Police.

(13) If the resources of the Province, under the new constitution, are inadequate, as the result of taking what belongs to her, and leave little scope for the beneficent activities of the Government, the prophecy of Sir John Anderson, referred to above, is bound to come true—and the Reforms will fail disastrously in Bengal.

(14) If, on the other hand, adequate resources are secured by doing justice to Bengal, and the expansion of the more beneficent departments is facilitated, it will mean the breaking away of the bulk of those who are now so bitter against the Government. It is essential in the interests, not merely of Bengal, but also of the rest of India, that the finances of Bengal should be placed on a firm foundation, and the development which has been retarded in the past 12 years should be fully assured for the future. To achieve this end, nothing more is necessary than giving Bengal what legitimately belongs to her.



REPLY TO MR. GHUZNAVI.





## REPLY TO MR. GHUZNAVI.

[In the following pamphlet Sir N. N. Sircar criticises the note circulated by Mr. A. H. Ghuznavi to Members of the Joint Committee and others on July 4, 1933. It will be seen that Sir N. N. Sircar deals seriatim with the points raised by Mr. Ghuznavi and gives a specific reply to each of them.]

### MR. GHUZNAVI'S CONTENTION.

Sir N. N. Sircar's memorandum threatens to upset the whole of the agreements reached at the Round Table Conference.

### SIR N. N. SIRCAR'S REPLY.

The memorandum does not attack any agreement reached at any Round Table Conference. Agreements at R.T.C. were to be the basis of "White Paper" proposals. Before the Committee no agreement or decision at an R.T.C. has any higher effect than a proposal for their consideration.

### MR. GHUZNAVI'S CONTENTION.

Solemn Warning was given by His Majesty's Government at the close of the Second Session of the Conference that if no agreement was arrived at, then the Government would announce an award.

### SIR N. N. SIRCAR'S REPLY.

This is incorrect. The facts are stated below:—

The Minorities Committee's Report dated 18th November, 1931, at the end of the Second Round Table Conference, signed "J. Ramsay MacDonald on behalf of the Committee" concludes with the following paragraph:—

"The Prime Minister as Chairman of the Committee, offered to act and give a decision of temporary validity, if he

were requested to do so by every member of the Committee signing an agreement to pledge himself to support his decision."

Some delegates made over signed letters to the Prime Minister. Others, including the Bengal Hindu delegate, Hon. Sir P. C. Mitter, K.C.S.I., declined to agree to arbitration, and did not make over any letter to the Prime Minister. On the 20th November, 1931, Sir P. C. Mitter had a notice circulated (see p. 104 of Proceedings of the Second Round Table Conference) which stated *inter alia* :—

"I may mention that although I am the sole representative from Bengal on the Minorities Sub-Committee, I was never asked by the Muslim Delegation to discuss the Bengal Communal question with them. I may add that I tried to convey the information that I was quite willing to discuss the matter."

The position at the end of the Second Round Table Conference, therefore, was that parties declined arbitration.

### **Subsequent History of Communal Decision.**

The Consultative Committee met at Delhi on some dates in February and on 5th March, 1932.

At the meeting of 22nd February, 1932, Mr. Zafarulla Khan stated that further discussions between the parties would lead nowhere, and that the difficulty could only be solved by a decision by the British Government.

Mr. Jayakar wanted to know if the Muslims would accept the decision if it was adverse to them. His exact words were :—

"Are they (the Muslims) going to submit themselves to the Prime Minister's decision whether right or wrong?"

He also asked : "Do they want to keep themselves open to consider the merits and details of the decision?"

Mr. Zafaralla Khan made the position perfectly clear by stating :—

"The Prime Minister or His Majesty's Government would in any case have to decide any question not settled by mutual agreement. That is in the nature of things; not only the

Communal question, but any question on which there is no agreement, His Majesty's Government must decide."

"The mere fact that Mr. Jayakar has been pleased to announce that the British Government may now decide the Communal question does not take the matter any further. Even if Mr. Jayakar did not agree, they were bound to decide it."

Dr. Shafaat Ahmad Khan stated:—

"The Muslim Delegation never mentioned the word 'arbitration'. We have all along said it is for His Majesty's Government to give a decision; of course we never asked for arbitration."

Later at the same meeting, Dr. Shafaat Ahmad Khan further stated: "We are not asking for his arbitration, we request the decision of His Majesty's Government!"

Sardar Sahab Sardar Ujjal Singh, who followed, stated: "There is no question of arbitration now."

It is obvious that His Majesty's Government had to give a decision, and the members of the Consultative Committee, particularly the Muslim members, made it perfectly clear that there was no question of any arbitration or award, and that it would be open to them to attack the decision if it was adverse to them.

• Lastly, it may be pointed out that there was no Bengal Hindu on the Consultative Committee.

• The British Government published its decision as "Communal Decision."

#### MR. GHUZNAV'S CONTENTION

The award would have been accepted by the Hindus, but for the fact which led to the Poona Pact.

#### SIR N. N. SIRCAR'S REPLY.

This is wholly incorrect. The moment the decision was known in Calcutta, it was unanimously attacked by the Hindu

Press in Bengal as being very unfair to Hindus. This was before any talk of fast.

### MR. GHUZNAVI'S CONTENTION.

Sir N. N. Sircar demands a re-opening of the whole Communal award.

### SIR N. N. SIRCĀR'S REPLY.

This is wholly wrong. As regards Bengal the Communal decision laid down:—

1. Separate Communal electorates for Muslims and Europeans.
  2. Method of election of Depressed Classes.
  3. Method of election to seats allotted to Christians and Anglo-Indians.
  4. Division in a certain way of women's seats.
  5. Allotment of 2 seats to Indian Christians.
  6. Allotment of 4 seats to Anglo-Indians.
  7. Allotment of 11 seats to Europeans.
  8. Allotment of 10 seats to Depressed Classes.
  9. Allotment of 19 seats to Commerce, Industry, etc. (14 Europeans, 5 Indians).
  10. Allotment of 5 seats to Landholders.
  11. Allotment of 2 seats to University.
  12. Allotment of 8 seats to Labour.
  13. 199 general seats to be divided, 119 being allotted to Muslims, and 80 to General Constituencies (i.e., other than Muslims, Indian Christians, Anglo-Indians and Europeans).
- My note has not attacked items 1 to 12; only the correctness of No. 13 has been disputed.

### MR. GHUZNAVI'S CONTENTION.

Change in the award as it concerns Bengal would inevitably mean a change in the award in every other Province.

## SIR N. N. SIRCAR'S REPLY.

Change in the proportion of general seats in Bengal cannot involve any change in other Provinces. Mr. Ghuznavi himself makes an offer of alteration in the decision at the end of his note, without involving other Provinces.

The fact that the Communal decision provided for variation taking place in one or more Provinces only, concedes that variation in one Province cannot be resisted by contending that the decision must be taken in its entirety for all purposes.

### Figures and calculations given in Mr. Ghuznavi's Note.

The whole of the figures and calculations given in Mr. Ghuznavi's note are vitiated by Mr. Ghuznavi not appreciating that "others" do not include Christians and Anglo-Indians. He has not realised that the 80 seats are allotted to Hindus plus others (others=other than Hindus, Muslims, Christians, Anglo-Indians and Europeans).

The note states that Hindu population is 43.04 and Hindus' quota is 14.0, etc. This is altogether misleading as there is no quota for Hindus in the Communal decision, but the quota is jointly for Hindus and "others."

What is taken as 43.04 should be 44.8. Every single figure given on page 3 of Mr. Ghuznavi's note (barring the figure of total percentage of Muslims) is wrong.

The correct figures are as follows:—

31 seats (i.e. 25 Europeans, 4 Anglo-Indians, 2 Christians) should be found by "Hindus and others" and Muslims (and not 25 as Mr. Ghuznavi erroneously assumes).

The proportion of adult populations are:—

Muslims	...	...	...	51.3
Christians	...	...	...	4
Others	...	...	...	1.7
Hindus	...	...	...	46.6
				<hr/>
				100.0

80 seats have been allotted to "Hindus and others" jointly, who form 46.6 plus 1.7=48.3 per cent. as against 51.3 Muslims.

Therefore 250 seats distributed according to percentage of 51 to 48 give:

Muslims	...	...	...	127.4
---------	-----	-----	-----	-------

Hindus and others	...	...	...	121.2
-------------------	-----	-----	-----	-------

Say, 128 and 121 seats, respectively, for Muslims and Hindus, leaving one seat for Europeans, Indian Christians, etc., on population basis.

If the 31 seats have to be rateably contributed by Muslims and "Hindus and others," Muslims have to sacrifice 16 seats and "Hindus and others" 15 seats.

Therefore, Muslim seats should be 128 minus 16=112;

Hindus (plus others) should get 121 minus 15=106.

As against 112 seats due on this calculation Muslims have got 119 seats plus as many seats as they can get out of the 20 special seats.

If the estimate of nine special seats for Muslims is wrong it may be tentatively taken at some lower figure, say 6. In that case the Muslim excess is 13, as they get 125 where 112 is due. Even if they get only 2 special seats, which is absurd, they have an excess of nine seats.

### Mr. Ghuznavi Looks for Support from Babies.

The total population percentages are:—

Muslims	...	...	...	54.8
---------	-----	-----	-----	------

Hindus and others	...	...	...	44.8
-------------------	-----	-----	-----	------

It is submitted that the basis of comparison should be adult population, particularly because it is pointed out in the censuses of 1921 and 1931 that the Muslim population always contains a very excessively large proportion of infants as compared to every other community. All details appear in the Census reports.

The figures for 1931 are as follows:—

### MUSLIMS.

	Male	Female	Total
Age 0-5	2,313,799	2,381,949	4,695,748

### HINDUS.

Age 0-5	1,551,663	1,581,006	3,133,669
---------	-----------	-----------	-----------

The Muslim infants between 0 and 5 are thus 50 per cent. more than those in the other communities.

### MUSLIMS.

Age 5-10	2,118,547	1,895,948	4,014,495
----------	-----------	-----------	-----------

### HINDUS.

Age 5-10	1,448,213	1,278,850	2,727,063
----------	-----------	-----------	-----------

Again an excess of 50 per cent.

For age 10-15 there is an excess of about 30 per cent., and so on. It will thus be seen that in the population between 0 and 10, the Muslims have an excess of nearly three millions over "Hindus and others" (which in Bengal practically means Hindus.)

If there were adult suffrage the ratio of Muslim voters to those of Hindus and "others" would be 51.3 to 48.3.

It is submitted that this is the proper ratio; the ratio accepted by Mr. Ghuznavi is not correct as it is dependent on the counting of the heads of babies.

### MR. GHUZNAVI'S CONTENTION.

According to population ratio Muslims should get 137 seats. They have actually got 121, so 16 seats have been taken from Hindus instead of 11 seats from Hindus and 14 from Moslems.

### SIR N. N. SIRCAR'S REPLY.

According to adult population ratio the Muslims should get 128; they have actually got 119 plus such seats as they can get out of 20 special seats.



On the same basis "Hindus and others" should get 121 seats, but they have got 80 plus such seats as they can get out of 20 special seats.

If Muslims get out of the 20 special seats even 6 seats only, as they get  $119 + 6 = 125$ , 3 seats are taken out of the Muslim share, but 27 seats have been taken from Hindus and others, as they get  $80 + 14 = 94$ , instead of 121; or in other words, for finding 30 seats for Europeans, 3 are taken from Muslims and 27 from Hindus.

#### MR. GHUZNAVI'S CONTENTION.

Where in a Province a particular community represents the majority of its population, its representation should reflect that majority, which should not be reduced to a minority or even to equality.

#### SIR N. N. SIRCAR'S REPLY.

Thirty seats have got to be found by Hindus and Muslims. The latter cannot have 51 per cent. out of 250 nor the Hindus their 48 per cent. unless they can wipe off all European, Christian and Anglo-Indian seats.

#### MR. GHUZNAVI'S CONTENTION.

The Hindus are supposed to get 32.2 i.e., 98 seats. Their population strength is 43 per cent.

#### SIR N. N. SIRCAR'S REPLY.

This argument and what follows are based on a series of mistakes, viz:—

(1.) Seats have not been separately allotted to Hindus, but to "Hindus and others," whose strength of adult population is 48.3.

(2.) Assumption is made that Muslims will get only 2 special seats out of 20, which is wrong, as is shown below.

#### MR. GHUZNAVI'S CONTENTION.

The Muslims will get only 2 special seats, i.e., 2 seats from Labour.

## SIR N. N. SIRCAR'S REPLY.

The Muslim Chamber of Commerce will be given 1 seat. One of the two Universities, *viz.*, Dacca, has returned alternately Hindu and Muslim. Out of the Landlord seats in East Bengal, where the Muslims are in vast preponderance and where Landholders' franchise has been fixed at a figure lower than that in West Bengal, the Muslims are expected to get at least 1 out of 5.

It is conceded by Mr. Ghuznavi that 2 Labour seats will go to Muslims. Evidence will be led on this point to show that they ought to get half of the 8 Labour seats. In any event, this note has proceeded on the footing of Muslims getting only six seats and not nine.

## Mr. Ghuznavi's Complaint about European Weightage.

Mr. Ghuznavi concedes that "Europeans are entitled to weightage on account of their vested interest and stake in the country," but "nowhere in the world has such inflated weightage been given."

If consideration is shown to Hindus for their stake and interest, the relative positions may be gathered from the comparative table:—

## RELATIVE POSITIONS.

	Muslims.	General.
Total Population ... ..	54.8 per cent.	44.8 per cent.
Adult Population ... ..	51.3 "	48.3 "
Literacy ... ..	35.5 "	65.0 "
Literacy in English (both sexes)*	24.9 "	70.2 "
Students in High Schools ...	17.9 "	80.3 "
Students in Intermediate Colleges	13.6 "	84.2 "
Students in Degree Classes ...	14.2 "	83.6 "
Post-Graduate and Research Students	13.0 "	85.8 "
Medical Schools ... ..	12.1 "	87.1 "
Technical and Industrial Schools	19.9 "	64.4 "
Engineering and Survey Schools	13.0 "	86.4 "
Commercial Schools ... ..	7.8 "	86.2 "
Medical Profession ... ..	17.0 "	81.0 "
Legal Profession ... ..	11.6 "	87.8 "
Employed in Agriculture ...	62.7 "	35.0 "

(General=Hindus, plus other than Indian Christians, Anglo-Indians and Europeans. In Bengal, it practically means Hindus.)

The Muslims do not contribute one-fifth of the Provincial Revenue—and some idea of respected “vested interests” may be gathered from the fact that in the rates collected annually by the Calcutta Corporation (over four crores of rupees), the Muslims contribute only 5.6 per cent. of the total.

### MR. GHUZNAVI'S CONTENTION.

I suggest, that any adjustment that may be feasible should be made in the framing and allotment of these special constituencies, and that it would lead to a dangerous situation to make any attempt to tamper with the allotment of seats which have already been definitely allotted.

### SIR N. N. SIRCAR'S REPLY.

(1) This is not understood, as the special seats have been as definitely allotted as the general seats.

(2) If the Joint Committee and Parliament are convinced that an incorrect decision has been given, is it suggested that they, whose hands are not tied in any way, should be deterred from doing justice, because it would amount to “tampering?”

### CONCLUSION.

(1) The view of the Government of Bengal, based on those of its European Members, is fair and should be accepted, and the Hindus should be allowed to secure weightage from the 20 special seats. Consequently, only general seats should be divided into proportions of 51 and 48, which yields the figures—Muslims 101 or 102 and Hindus and others 98 or 97. Therefore, Muslim general seats should be reduced by 16 or 17.

(2) If Hindus are denied considerations shown to Europeans (and which considerations are regarded as fair by European Members of the Government of Bengal) and the Muslim community is given 51 per cent. in the 20 special seats as well, even in that case, the reduction ought to be as follows :—

If estimated Muslim seats (out of 20 special seats) are taken at 8, the reduction should be 15.

If estimated Muslim seats (out of 20 special seats) are taken at 6, the reduction should be 13, and so on.

If the estimate is taken at 2, which is obviously too low, there ought to be a reduction of nine seats.

The general feeling in Bengal among the Hindus (as writings in the Press and public speeches will show) is that justice is being denied to them as Terrorists (some 2,000 in a population of nine millions) come from their community.

The writer contradicts this view, and he assumes that a mistake has been made, though His Majesty's Government was anxious to do justice.

If the Committee is convinced that the "White Paper" proposals amount to serious injustice to Bengal Hindus, it will be for them to consider whether their acceptance by Parliament will help the Constitutional Party among Bengal Hindus to work the Reformed Constitution, or whether this rankling sore will only help to create an atmosphere which will help the subversive elements.

It will be for the Joint Committee to consider whether the grievance of Bengal Hindus is justified, or whether they are merely bargaining for more seats on untenable grounds—and if it is the former, and if the most influential community in Bengal legitimately feel that they have been unjustly placed in a position of hopeless impotence, whether they will have any incentive for joining the Legislature and for working the Constitution.

## **COMMUNAL DECISION GIVES MUSLIMS DECREE FOR AN AMOUNT LARGER THAN THEIR CLAIM.**

Muslim members dissented from the Hindu member of the Government of Bengal and gave a separate note (see pp. 82-3 of the despatches of Provincial Governments supplied to delegates and members of the Committee).

The claim put forward in this note, on the assumption that the special seats will all be captured by Hindus, was that the general seats should be divided in proportions of 55 and 45.

On this basis the Muslim seats should be 109.4, whereas the communal decision gives them 119, *i.e.*, an excess of 10 over what was claimed.

## APPENDIX.

### FEAR OF CAPTURE OF THE POLITICAL MACHINE BY BENGAL HINDUS.

Some questions were put, by Mr. Ghuznavi to witnesses from the European Association for showing that the subversive movement in Bengal is a Hindu movement. This is conceded, but this is as irrelevant as the fact that Muslim Zemindars in East Bengal have been leaders of "Civil Disobedience" movements in Bengal, and have been convicted for breaking laws. If it is suggested, that if justice is done to Hindus, the constitutional machinery will be brought to a standstill by subversive Hindus, then, it may be pointed out, that as depressed classes, Muslims and Europeans are deemed to be free from suspicion—the Hindus will be in a hopeless minority for any "mischief" without the help of Muslim allies.

It was only in 1924 and the year following that the constitutional machinery broke down in Bengal—by refusal of Ministers' salaries on three occasions.

The Bengal Legislative Council then consisted of (as it does now) 140 members: 114 elected members (16 Europeans, 2 Anglo-Indians, 39 Muslims, 36 Congress Hindus, 21 non-Congress Hindus) and 26 nominated members.

The votings on the three occasions for refusing Ministers' salaries, which created deadlocks and compelled the Governor to take up the transferred Departments, were:

24th March, 1924.—63 for, and 62 against, motion for refusing salaries. Of 39 elected Muslim members, 19 voted for the motion, 15 against it, and the remainder were absent.—(pp. 183-4, Vol. XIV, No. 5, of 1924 Official Reports of Bengal

---

\*This is an appendix to the last pamphlet containing Sir N. N. Sircar's criticism of Mr. A. H. Ghuznavi's contentions in his Note to the Joint Committee.

Legislative Council Proceedings). The mover was an elected Muslim member.

26th August, 1924.—68 members voted for the motion for refusing Ministers' salaries; 66 members voted against it. Of 39 elected Muslim members, 21 voted for the motion, 15 against it, and the remainder were absent. The mover was a Congress Hindu.—(*Ibid.* Vol. XVI, pp. 68-9.)

25th March, 1925.—69 members voted for refusal of Ministers' salaries; 63 members voted against refusal of salaries. Out of 39 elected Muslim members, as many as 27 voted for the motion, 10 against it, and the remainder were absent—(*Ibid.* Vol. XVII, No. 4, 1925, pp. 192, 240-41.)

### EUROPEAN WEIGHTAGE.

A Muslim correspondent suggested that the weightage allowed to Europeans was due to the motive of enabling them to hold the "balance of power" and that this would be the result if Hindus got the share due to them. But this is not the position under the Communal decision. The unjustified excess allowed to Muslims gives them a majority against all other combined interests.

The editorial article in the "Statesman" on the voting in connection with Second Chambers, when Europeans and non-Congress Hindus were defeated by the Muslims, will show that occasions will arise in Bengal when the Europeans will have to seek the help of the Hindus.

In matters connected with trade and commerce, "vested interest" and "stake" (to quote Mr. Ghuznavi's words) of the Hindus and Europeans have vast preponderance over those of the Muslims, who are free from the burden of heavy commercial interests, and who constitute the bulk of the cultivators in Bengal.

London : July, 1933.

N. N. SIRCAR.

# THE HIGH COURTS IN INDIA.





## •THE HIGH COURTS IN INDIA.

Apart from performance of Judicial work, a High Court deals with various administrative matters requiring the sanction of executive authorities, *e.g.*, the appointment of an additional Assistant Registrar or increase in staff or change of salary, provisions for accommodation for trials of cases or for convenience of juries and witnesses, etc.

The Calcutta High Court is the High Court for two Provinces, *viz.*, Bengal and Assam. The number of such situations will be increased after the separation of Sind and Orissa.

The difference between the Calcutta High Court and the other High Courts consists in this, that the executive authority in one case, *i.e.*, Calcutta High Court, is the Government of India, and the authority in the remaining cases is the Provincial Government.

“But the further point arises that while the executive authority that gives the decision is different, the expenses involved in carrying out the decision are in all cases charged on Provincial Funds, and come up to be voted by the Provincial Council” (Simon Commission Report, Vol. II, p. 300).

For financial and administrative matters like those mentioned above, the Judges have to depend upon the support and goodwill of the executive authority.

The relations between the High Court and the executive have so far been fairly harmonious, but the administration is now a reserved subject, and neither the Governor nor the member in charge of this reserved department belongs to any political party.

The Governor under the new Constitution will be replaced by a ministry likely to be dominated, at least in the opening years, by communal feelings, and the situation will be completely changed.

If the recommendations of the Simon Report are not accepted, and if the High Courts are placed under Provincial Governments, as the "White Paper" proposes, it will be difficult to keep them free from local politics and communal influences. The Provincial Councils will vote on supplies for the High Courts, and a Provincial Government dependent on the votes of one community or another will have means directly, or indirectly, of putting pressure on the Judges. The consequence will be either that the Judges will tend to adopt an accommodating attitude in discharging their administrative functions, or there will be constant friction between the High Court and the Provincial Government.

That this is a real danger is well borne out by the regrettable incident which took place in Bengal when Lord Zetland was Governor with reference to the house proposed to be built and partly erected for the Chief Justice of Calcutta. Adverse criticism of High Court Judges in the local Council in connection with the "Paper-book" controversy is another instance.

Ministers in Provincial Councils have often been undistinguished members of the Bar with followings of disappointed lawyers. A ministry of this description which may also have a communal bias is not unlikely to create difficulties in the matter of sanctioning proposals made by the High Court.

The arguments which can be properly advanced for and against central control have been carefully considered in the Simon Report, and for easy reference, Part X, which deals with the High Courts, is set out in the appendix\* to this pamphlet.

The importance of maintaining complete independence of the High Courts need not be laboured, and this can only be done by removing the control of the High Courts from the sphere of local political and communal influences to the more remote atmosphere of the Central Government. It is then only that their budgets will not be subject to the fluctuating vote of the Provincial Councils, and political and communal pressure will not be brought to bear on them in various ways. The High Courts are financially self-supporting and the supposed difficulty has

---

\*See pages 132—136 of this work.

been fully considered and met in the Simon Report. A more detached view of affairs is likely to be taken by the Central Government, and if the High Courts are administered by the Central Government, the administration of Justice will be co-ordinated in the various Provinces. It will be a factor in promoting the unity of India.

One of the functions of the High Court is to advise the Government as to appointments to subordinate judicial posts, which should be extended to magistrates.

The considerations which apply in case of members of the Indian Civil Service apply with equal force to the subordinate judiciary (including magistrates). The impartiality of the High Courts in giving advice will provide a valuable check on transfers, appointments, etc., being influenced by communal or political considerations. It has been repeatedly said that it is now difficult for a non-Congress man to get a job or a contract under the Calcutta Corporation. If so, it is not difficult to realise that a situation will arise where all magistrates may be appointed from one political camp, be it Hindu or Muslim, Congress or non-Congress.

Precedents for the suggested scheme will be found in the Canadian Constitution, which places High Courts in the Provinces under the control of the Central Government.

The Statutory Commissioners did not omit to consider the arguments which could be advanced against their conclusion, and, their view, it is submitted, is quite correct, viz., considerations for central control far outweigh the difficulties urged against it.

# **APPENDIX.**

## **REPORT OF THE INDIAN STATUTORY COMMISSION.**

Vol. II (pp. 299—303).

### **PART X.—THE HIGH COURTS.**

#### **The Argument for Central Control.**

345. While we propose that all High Courts alike should, for administrative purposes, be put under the Government of India, we do not mean that the situation now existing in Calcutta should be perpetuated and extended. We recommend that the charges of all High Courts should be put upon central revenues, and that the administrative control of all High Courts should be exercised by the Government of India and not by the provincial Governments. Let us give an illustration of the difference which this would make. Under the present system, if the Chief Justice of the Calcutta High Court writes to the Government of India to say that he needs the services of an extra Assistant Registrar, the Government of India, if it sees no valid objections, forwards the application to the Government of Bengal for remarks. The Government of Bengal has no responsibility for seeing that the High Court is properly administered or that its staff is not overworked; but, on the other hand, if the application is recommended by the Government of Bengal to be granted, it is the Government of Bengal that will have to find the money. It seems to us that such a system cannot be regarded as satisfactory, and we were informed that the objection to it was felt both by the judiciary and by the executive concerned.

## HIGH COURT EXPENSES TO BE BORNE ON CENTRAL FUNDS.

346. The solution which we put forward is that the administrative expenses of all High Courts (including the Chief Court of Oudh and the Courts of the Judicial Commissioners of the Central Provinces and Sind) should be borne on central funds. It may be thought that the question whether judicial salaries should be transferred is of less practical importance, since these salaries are in any case non-votable, and thus the matter, however decided, is merely one for financial adjustment. But we consider that the proper course is to place these salaries also upon central funds. Additional judges, as we have already pointed out, are in all cases appointed by the Central Government, and we think that the appointment of temporary judges should be made by the Governor-General, but only after consulting the provincial Governor.

## CONSEQUENTIAL ADJUSTMENTS.

347. The course we have recommended seems to us the best way of getting rid of the anomaly to which we have referred. If the readjustment of provincial boundaries results in the carving out of additional provinces, other cases may arise in which one High Court ought to serve more than one provincial area and our solution prevents fresh difficulty arising from this cause. It involves no denial of the principles of provincial self-government, for, of course, the High Court, whether in Calcutta or elsewhere, in carrying on its judicial work is entirely independent of the Executive, whether provincial or central, and is equally outside the range of criticism by the legislatures. We by no means intend that the functions of the Executive, in connection with the administration of the subordinate judiciary of the province, should be taken from it or transferred to the Central Government and to this point we shall refer later. First, however, the objection has to be met that, since "judicial stamps" is a source of provincial revenue, the fund fed from this source should be that out of which the administrative and other expenses of the High Court should

be paid. It would not be a satisfactory arrangement to leave central funds to pay for the High Courts, while provincial funds ~~get~~ the benefit of the revenue which they produce. This point ~~should be met~~, we consider, by making High Court fees a source of central revenue. Much the more important part of the proceeds of judicial stamps arises in connection with Courts of subordinate jurisdiction, and this head of revenue would remain provincial. So the adjustment will not seriously affect the working out of Mr. Layton's general financial scheme, and we are informed that there ought to be no difficulty in making the distinction in practice.

### RELATIONS BETWEEN HIGH COURT AND PROVINCIAL EXECUTIVE.

348. The other objection which is felt in some quarters to the adoption of the suggestion that the High Courts should be centralised is that this arrangement might remove the High Court judges too far from the provincial Government, and that there are good practical reasons why a closer connection should be maintained. Judges of the High Court, for example, have important work to do in connection with the provincial Executive; they are not infrequently consulted on the drafting of Bills or on projects of provincial legislation. We are not offering any criticism of this practice, provided that it does not interfere with the due discharge of a High Court judge's primary work, but we do not see any reason for supposing that this assistance, which may often have the advantage of keeping the judge in touch with the conditions of his province as well as providing the provincial Executive with skilled and impartial advice, would cease to be forthcoming. A further point which arises is whether the work done by the High Court in connection with the appointment, promotion or dismissal of the subordinate judiciary and its general supervision over the Courts of the province can be equally well discharged, if the present relation between a High Court and the Government of its province is varied in the way we suggest. The duties to which we have just referred do not take quite the same form in every province.

In Madras and Burma the High Court actually appoints some of the subordinate judiciary; in other provinces it takes part in advising the provincial Executive on such matters, or in reporting to them on the subject. In all provinces it supervises the lower courts. Whatever the exact arrangement may be, it is no doubt felt to be convenient for the executive authority charged with the administration of justice in the province to be in close relation with High Court judges. Local conditions have to be taken into account, but here again the changes we are recommending should not affect the easy working of the system we have just described. It does not do so, we believe, under existing conditions in Bengal.

#### JUSTIFICATION FOR PROPOSED CHANGES.

349. We consider, therefore, in spite of these and other objections which may be raised, that the changes we have proposed should now be made. There is no possible justification for keeping up two systems, side by side, in British India in such a matter. The importance of maintaining the complete independence of the High Court Bench, not only in respect of private litigation but in connection with controversies in which the local administration may be involved, is overwhelming. Some adjustments of detail are involved; for instance, High Courts should communicate with the Central Government direct, without the necessity of going through the channel of a department in the provincial Executive. This change will simplify and accelerate business, and remove any risk of local political influence, or obstruction, without affecting the object aimed at by our proposal. It may be said that the provincial Government, which is on the spot, is in a better position to decide whether the requirements put forward by a High Court are justified and that, if these things are left to the Government of India to determine, the interests of economy may suffer. But since those who authorise the expenditure will be responsible for finding the money, a check upon extravagance is provided, and there seems no reason why the Government of India should



not, in this case as in other cases in which it has to consider requests for additional outlay on matters which it controls in the provinces, be represented by a local agency or provide itself with authoritative local advice.

## POPULATION RATIOS.



## POPULATION RATIOS.

[The following note was circulated at the instance of Sir N. N. Sircar. It contained facts relating to Bengal which were intended to be put to witnesses from India Office, during the examination of the Secretary of State on "Franchise and Legislatures."]

### A

1. The ratio of Muslim population to that of "General" (*i.e.*, Hindus plus communities other than Christians and Muslims) is 54.8 to 44.8, if total populations are considered. [As appearing from figures given in Census of 1931].

2. The ratio of adult populations is 51.3 to 48.3.

3. The difference is explained by the excessive number of infants and children in the Muslim Community in Bengal, as compared to other communities.

(a) Figures taken from the Census of 1931 :

	Male	Female	Total
Muslims :—Age 0-5 ...	2,313,799	2,381,949	4,695,748
Hindus :— Age 0-5 ...	1,551,663	1,581,006	3,133,669

The Muslim infants between 0-5 are thus 50 per cent. more than Hindus of this age

(b) Similarly for age 5-10 :—

	Male	Female	Total
Muslims :—Age 5-10 ...	2,118,547	1,895,948	4,014,495
Hindus :— Age 5-10 ...	1,448,213	1,278,850	2,727,063

This is again an excess of 50 per cent.

(c) For age 10-15 there is an excess of about 30 per cent.

(d) In the ages 0—10 the Muslims have an excess of nearly three millions over Hindus.

## 4. Relative positions in different matters are :-

	Muslims General			Muslims General	
Total population ...	54.8	44.8	Medical Schools ...	12.1	87.1
Adult population ...	51.3	48.3	Technical and Industrial Schools	19.9	64.4
Literacy ...	35.0	65.0	Engineering and Survey Schools	13.0	86.4
Literacy in English (both sexes) ...	24.9	70.2	Commercial Schools ...	7.8	86.2
Students in High Schools ...	17.9	80.3	Medical Profession	17.0	81.0
Students in Intermediate Colleges	13.6	84.2	Legal Profession	11.6	87.8
Students in Degree Classes ...	14.2	83.6	Employed in Agriculture ...	62.7	35.0
Post-Graduate and Research Students	13.0	85.8			

## B.

1. Of the total 250 seats proposed for Bengal—

(a) 31 are allocated to Europeans, Anglo-Indians and Christians, who between them form less than half of one per cent. of the total population.

2. There are 20 special seats, and 199 general seats to be apportioned between Muslims and General (which in Bengal means practically Hindus).

3. (a) If 199 seats are divided in proportions of adult populations, the result will be Muslims 101 or 102, and General 98 or 97.

(b) If the General as well as Special Seats are divided similarly, the result will be Muslims 112 and General 107.

(c) The view of the European members of the Government of Bengal was that Hindus should get their weightage from the Special Seats—but considerations applicable in case of Europeans have been ignored in case of Hindus.

(d) If the 199 General Seats are divided according to proportions of total populations, the result will be 109 Muslim Seats and 90 General Seats.

(e) Under the Communal decision what has been allowed to Muslims is 119 seats plus whatever they can get out of the 20 Special Seats.

## PART II

---

### CROSS-EXAMINATION OF WITNESSES BEFORE JOINT COMMITTEE



**EUROPEAN ASSOCIATION  
AND THE C. I. D.**





## EUROPEAN ASSOCIATION AND THE C.I.D.

[The European Association of India submitted a Memorandum, (Memorandum No. 29) on the White Paper proposals to the Joint Committee on Indian Constitutional Reform. Mr. F. E. James, Mr. W. W. K. Page, Mr. T. Gavin-Jones, Mr. G. E. Cuffe, Mr. L. A. Roffey, Sir William McKercher and Mr. F. W. Hockenhuil were called in as witnesses on behalf of the European Association and examined by the Committee on July 4, 1933. Mr. F. E. James spoke as the principal witness on behalf of the Association.

After Mr. James had been cross-examined by some other members of the Committee, Sir N. N. Sircar put two questions (namely, questions Nos. 3819 and 3820) to Mr. James to elicit a full statement on the European Association's proposals for the federalization of the C.I.D. As will be seen, Mr. James did not speak long and requested Mr. Page to explain the matter in greater detail.]

*Sir N. N. Sircar.*

3819.\* May I draw the attention of Mr. James to the marginal note to paragraph 16: "Defence against Terrorism must be effective." If he will kindly now proceed to the end of the paragraph, it is said there: "The Association does not wish to pledge itself to any particular method; that is a matter for expert opinion." What I want to make clear is this: That when you said that the whole of the C.I.D. should be dealt

\*The figures preceeding the questions in this part of the work are the serial numbers of the questions put to various witnesses by the members of the Joint Committee and by the delegates.

with in a particular manner, that was in furtherance of this idea of protection against terrorism, was it not?—Yes.

3820. If, as a matter of fact, it is possible to separate the special branch from the rest, then you are not insisting on the whole of the C.I.D. being dealt with in the way suggested by you?—No; I should like to have an opportunity of elaborating that point, and, if the Lord Chairman will permit, Mr. Page will explain that in greater detail. (*Mr. Page*). What we feel, my Lord Chairman, is this: It is essentially a Bengal problem at present and there can be no controversy about the true facts as regards the terrorist movement. The first point is that it is definitely and openly anti-British. That is the first point which we in Bengal have to deal with. How far it is an anarchical movement we do not know. We believe that it is quite probable that the problem with which the present Provincial Government has to deal will have to be dealt with by any Government which succeeds it under the proposed reforms; and we believe that we are not only protecting ourselves but protecting future Governments if we insist so far as we can on adequate safeguards to keep that movement under control. The second point about it is this, as to which again there can be no controversy. It has in the very recent past (and we do not believe that there has been any real change in the present) had the active, open, professed support of the best organised political Party in Bengal, the Congress Party. There can be no doubt whatever that in the very near past the Congress (or to be entirely accurate, prominent members of the Congress Party) have openly expressed their approval of the methods which this particular movement employs. Am I entitled to go on, my Lord Chairman, to develop my point? I do not want to take up time.

*Chairman.*

3821. Certainly; yes, please?—As I have said, the immediate professed object of this movement is to drive the British out of the country. That is not an implication; it is their professed object, and their method is equally simple. It is murder. The instruments which they use to effect murder have been

up to date either the revolver or the bomb. The bomb is no respecter of persons, no respecter of sex; with the result that for several years we have had murders, not only of British men, but also of British women. As I am reminded by an honourable Member, the casualties are not confined to British men and British women, but extend to those who serve the Government faithfully, with the result that we had a large number of murders of officers, British and Indian, and men of the Police Force. I doubt very much whether this Committee realises the number of murders which have taken place. We, as the intended victims, have no intention of foregoing any reasonable safeguards. The only detail in which I think we can be said to differ at all from the views which have been taken by other Provinces is on this question of the transfer of the C.I.D. as a whole, and, as my leader has told Sir N. N. Sircar, if His Majesty's Government is satisfied, after taking expert opinion (which we cannot profess to tender) that it is possible to separate the two branches, the branch which deals with political crime and the branch which deals with ordinary, everyday crimes of violence, then we should be perfectly satisfied with that; but what we feel at present is this, that the whole of the structure of the C.I.D. depends on the work of the agents whom the Police employ. Without their agents they are entirely unable to cope with this organisation. The same agent is employed necessarily for purposes of acquiring information, whether it be political crime or ordinary crime, and there is a second reason why we find it difficult to separate the two branches and that is this, that, although I have said that the method which this organisation employs is the simple method of murder, they require, for the purposes of their organisation, money, and that they obtain by another kind of crime, robbery with violence—what we call dacoity. It is very difficult, we believe, in the early stages of investigation of a crime of that nature to decide whether it is an ordinary dacoity, or whether it is a crime perpetrated by those particular gangs who form the terrorist organisation. It is for those two reasons that we at present in Bengal find it impossible to be satisfied with the reservation of the special branch of the C.I.D., but we wish



## UNION OF BRITAIN AND INDIA'S PROPOSALS.

[The Union of Britain and India presented a Memorandum (Memorandum No. 31)\* on the White Paper proposals to the Joint Committee on Indian Constitutional Reform. The Union stated in the Memorandum that it gave general support to the White Paper scheme in the firm belief that it was possible to frame a Constitution on the triple basis of—

- (a) Full provincial responsibility,
- (b) Federation, and
- (c) Responsibility for all but the Reserved Departments at the Centre;

and to provide safeguards which would make that Constitution workable.

Sir Joseph Thompson, K.C.S.I., K.C.I.E., I.C.S., who was Chief Commissioner of Delhi from 1928 to 1932, Sir Alfred Watson, who was Editor of *The Statesman* from 1925 to March 31, 1933, and Mr. Edward Villiers, who was President of the European Association in India from 1931 to 1933, were examined at length on behalf of that Union on July 5, 1933, by the members of the Joint Committee.

The witnesses were called in again and further examined on July 6, 1933.

Sir N. N. Sircar put questions to Mr. Villiers on Terrorism and on the proposal for the expansion of the electorate in Bengal.

Sir N. N. Sircar's questions and Mr. Villiers's answers are given below.]

*Sir N. N. Sircar.*

4637. May I put this question to Mr. Villiers. At the present moment the Government Secretary in charge of the special branch at Calcutta is an Indian—Mr. Roy?—(*Mr. Villiers*) Yes.

4638. Am I right in understanding you to say that the informer, while he has confidence and he knows that his information will be in the keeping of a high police official, will not have the same confidence if he knows that the matter is going to a Minister?—That is correct.

4639. It is not so much a question of the Indian or European, but a question whether he is trusting the high official of a Department or whether the matter is going to a Minister?—Precisely.

4640. I know that since 1921 you have been in very active touch with Indian politicians?—I have.

4641. You have very frequently discussed matters with the Indians, including men belonging to the Congress Party?—Yes; I had long talks with men like the late Mr. C. R. Das, and so on.

4642. I am assuming also you would know a good deal about the terrorist movement?—I have a certain working knowledge of it; yes.

4643. Am I right in saying that, judging by the members of the movement who have been captured from time to time by these officials, their view is probably this, that the present condition of difficulties is due to a foreign rule and therefore foreign rule must be cut off altogether?—So far as it is due to any reasoning thought at all, it is definitely due to that. In a great measure these boys are caught while they are absolute youngsters, and their emotions are worked on until they get into a state of hysteria over a matter which is right beyond the scope of reasoning at all, but, so far as reasoning comes in at all, you are correct in your statement.

4644. May I take it that these Terrorists all come from the Hindu community?—That is so.

4645. When I say Hindu, I mean Hindu as opposed to the Depressed Classes?—Quite so.

4646. Do you think that if the Bengal Hindu would come to the Legislature, and try to work out his salvation through it, that would result in weaning sympathisers of Terrorists, and isolate the Terrorists?—I think in time that will undoubtedly be the tendency, but I think it will take a certain amount of time.

4647. May I take it that it follows that if the Bengal Hindus feel that they have a legitimate grievance, and they keep away from the Legislature, knowing their position, and so on, it will really help disturbance and the Terrorist movement in Bengal?—Any feeling of legitimate grievance on the part of the community would have that effect, so far as that community is concerned.

4648. If it is legitimate?—If it is legitimate.

4649. Did you find in Bengal a general feeling of nervousness about the large expansion of the electorate?—Yes.

4650. Will you just tell me this: Supposing the idea of the Government of Bengal is accepted, and the number is reduced from 250 to 200, it will mean an increase of, say, 15 to 20 per cent. in the area of the constituencies, but even then those constituencies will be very much less in area than the constituencies for the Central Legislative Council?—I am not quite clear what the question is.

4651. The question is this: Supposing, instead of 250 we get 200 members of the Bengal Council in the Bengal Legislature, that would mean an increase in the areas of, roughly, 20 per cent.?—Yes.

4652. This increased area will be very much less than the area of the constituencies for the Central Legislature?—Personally, I do not think an increase such as that would make any material difference.

4653. Why not?—For two reasons; partly because the constituencies are so large already that I think an enlargement to that extent would not make any very great difference; and, secondly, because the people, I think, in India as in other



places will not cast their vote on politics but on personalities and parties.

4654. If I may say so, Mr. Villiers, I entirely agree, and I put to you this final question: Supposing the number is limited to 200, knowing Bengal as you do, and the different interests, will there be any difficulty in getting fair and adequate representation for all the communities, the number being 200?— I do not think there would be any material added difficulty.

**JUTE DUTY AND INCOME-TAX :  
BENGAL'S CLAIM**



## **JUTE DUTY AND INCOME-TAX : BENGAL'S CLAIM**

• [In relation to the question of the whole of the export duty on jute being handed over to Bengal, Sir N. N. Sircar caused to be printed and distributed among Members of the Select Committee, as also among Members of Parliament who were not on the Committee, various leaflets and pamphlets, one of which, "Bengal Finances and Terrorism", has been included in this volume.

The grounds for the claim of Bengal to the whole of Export Duty on jute and the claim for more equitable distribution of the Income-Tax were brought out by questions put by Sir N. N. Sircar to Sir Edward Benthall. Sir N. N. Sircar's questions and Sir Edward Benthall's answers are reproduced below.]

*Sir N. N. Sircar.*

6251 . . . . Sir Edward, in reply to Sir Abdur Rahim you stated that your Chambers of Commerce considered that the export tax on jute was a discriminatory tax and you claimed it, not on the ground of expediency, but on principle. Is not that what you said?—Yes.

6252 . . . . Before I come to anything which can have any bearing on the question of principle, can you tell me how the allocation of this source of income to the Centre has actually affected the Province?—It has affected it very seriously. It has turned what we consider should be a surplus Province into a deficit Province. The figures I think are fairly well-known and they are given in Sir Walter Layton's Report to the Simon Commission. In Bengal, according to the figures given there,

of the total revenue of the Province of 38 crores, no less than 70 per cent. has gone to the Centre, as against, in the Punjab, I think, only 8 per cent. of the total revenues raised have gone to the Centre; and in the United Provinces something like 20 per cent.

*Dr. Shafa'at Ahmad Khan.*

6253 . . . . What about the Provincial contributions? —I am talking of the total revenues raised in the Province. My point is that, of the total of 100 per cent. of revenues raised both for Provincial and Central purposes, no less than 70 per cent. is taken by the Centre, against, in the Punjab, only 8 per cent. is taken by the Centre; and the figure for the United Provinces, I think, is 22 per cent. The result is that the Province has been hopelessly handicapped in this last Constitution, and the Government has been unable to do anything regarding reorganisation of education or other nation-building services, and I may go so far as to say that there is a feeling of general despair in the Province as a result of the Meston Settlement, and it has had its repercussion on other Provinces and possibly on the Reforms generally.

*Sir N. N. Sircar.*

6254 . . . . I will not trouble you about the figures and so on. I can put them before the Committee at our discussions, but, shortly put, is not the position this:

Four crores of rupees which represent the jute export duty are taken to the Centre and the result is the deficit of Bengal to the extent of two crores? Is that what you mean by saying that it turns this Province into a deficit Province?—Yes.

6255 . . . . And from the figures, without going into details, in respect of natural resources, Bengal is the richest Province?—Yes.

6256 . . . . It is only this system of allocation which turns Bengal into a deficit Province?—Yes.

6257 . . . . Will you tell me very shortly what effect does this, tax have on the land revenue and the ryot?—

In the first place, I think it is a direct tax on an agricultural product and it, therefore, has the same incidence as land revenue. It undoubtedly falls on the producer. When it was put on in 1916 it was put on as a War measure and then, with the high prices, it probably fell on the consumer; but to-day it undoubtedly falls on the producer, mainly the Muslim ryot in Eastern Bengal, and its incidence is actually to-day some 18 per cent.

*Sir Joseph Null.*

6258 . . . . 18 per cent. of what?—18 per cent. of the commodity. On a price of jute of 25 Rupees it is Rs. 4 As. 8. I may say that it prevents the Province from opening up the question of the Permanent Settlement, even if it were possible, because it is impossible to tax agriculture any more in view of this heavy tax which is put on the Province.

*Sir N. N. Sircar.*

6259 . . . . Going back to your first statement, will you just indicate on what principle you claim this Jute Export Duty for Bengal?—

The Taxation Inquiry laid down the rule that an export tax is only justified if it is a monopoly and at a low rate. Jute is no longer a monopoly, because the purposes for which it is used are now filled by paper, cotton and bulk-handling. It is not low because, as I say, the incidence is 18 per cent. and I do not think that anybody contemplated that it would be that when the tax was put on. We think that the tax ought to be removed altogether and also that it never would have been imposed except as a War measure, and would certainly not be imposed if it were a question of imposing it to-day. On the point which Sir Abdur Rahim raised, we claim that the product comes from certain Provinces only, it is a tax on their agricultural revenue, as I have tried to point out, and that, therefore, it is a tax of a discriminatory nature on certain Provinces only. That is one of our main principles.

*Sir Hari Singh Gour*

6260 . . . How is it of a discriminatory nature? Because it is a tax on certain units of what will be the Federation for the benefit of the whole.

*Sir N. N. Sircar.*

6261 . . . . May I make that point clear: Whatever may have happened hitherto, now, if the different units are going to receive the same financial treatment, what would happen if we intended to have an agricultural Income Tax? Would not Bengal be severely handicapped by reason of this 18 per cent. duty on one of its principal agricultural crops?—Certainly. I tried to make that point.

6262 . . . . Be that as it may, have your Chamber any objection to the Centre receiving half of whatever is necessary from this export duty for the purpose of the Central solvency?—You mean, if the Province is given the total income from it, is there any objection to a proportion of it being given back to the Centre?

6263 . . . . Just as the proposal is to take the Income Tax for a certain period to the extent of a certain amount—the amount which is necessary for Central solvency? Is there any objection to that going to the Centre?—No; we consider that the principle of allotting it to the Province has been conceded and after a considerable struggle by everyone in the Province, and if that principle is conceded in its entirety then we are quite willing that a proportion should be given back to help the Centre, but we think that that proportion should be given to the Province before any Income Tax is given to the other Provinces.

6264 . . . . You tell us this was introduced as a War measure in 1916. Roughly speaking, about 50 crores of Rupees have gone to the Centre as jute export duty?—It must be something about that. I have not the exact figure.

6265 . . . . Can you suggest anything which ought to be done before Federation is started to remedy this unfair

burden which has lasted for about 20 years?—Yes. One of the claims of the Province, supported by everyone in the Province, is that the deficit due to the Meston Settlement ought to be foregone by the Centre. I think in the last four years it would amount to about seven crores. The interest on that, plus the share of the jute tax, plus retrenchment, might just enable Bengal to balance its budget, but no more.

6266 . . . . I have only one more question. Both as regards Bengal and Bombay—industrial Provinces—I presume they are responsible for the major portion of the Income Tax. Is not that so?—Yes. (*Mr. Winterbotham*).—Yes.

6267 . . . . It follows, therefore, that the larger the amount of Income Tax, the larger the block which is taken to the Centre, the greater is the disproportionate burden on these two Provinces, Bengal and Bombay, as compared to the others?—It does.

6268 . . . . What do you suggest is the proper basis of distribution of Income Tax to remove this disproportion, as much as is possible?—(*Mr. Winterbotham*). We deal with that in our Memorandum. Sir Edward Benthall has had a wonderful opportunity of putting forward Bengal's particular case and I would like here to take the opportunity of making Bombay's case, the other great industrial Province. There is no solution to Bombay's difficulty, except the making of Income Tax a Provincial revenue, and we have made it plain in our Memorandum that on that question we think that the proposals in the White Paper are reasonable. But we also emphasize the fact that the greater the amount of Income Tax retained by the Federal Centre, the greater the hardship on the industrial Provinces, and the more the industrial Provinces will be contributing to the finances of the Centre. It is indisputable that Bombay has suffered just as much as Bengal from the inequity of Income Tax being a wholly Central revenue, and we do most strongly press that as soon as ever is practicable the proposals arrived at at the Third Round Table Conference in connection with the distribution of Income Tax to the Provinces should be put into effect, and we desire to stress the point—this is particularly a Bombay point—



that the percentage of Income Tax transferred to the Provinces should be uniform for all provinces. (*Sir Edward Benthall*). It is also a Bengal point. (*Mr. Winterbotham*). "I should like to make it plain that Bombay and Bengal are not in opposition, but they each have their particular point to stress, and we have been given the opportunity of doing it."

## **GOVERNOR'S POWERS.**



## GOVERNOR'S POWERS.

[Lord Salisbury put questions to Sir Samuel Hoare suggesting that the powers given to the Governor were inadequate, inasmuch as Ministers might decline to carry out the wishes of the Governor, and also because the local Police and others would always depend on the Minister.

To show how extensive are the proposed powers of the Governor under the new Constitution, and how members of superior services will be beyond the control of Ministers, and how groundless were the fears of Lord Salisbury, Sir N. N. Sircar put certain questions to Sir Samuel Hoare. The questions and the Secretary of State's answers are reproduced below.]

*Sir N. N. Sircar.*

6581. My Lord Chairman, may I ask the attention of the Secretary of State to certain possible but very specific dangers which have been indicated by questions of Lord Salisbury and some other Members of the Committee. If he kindly refers to Questions 5700 and 5704, the Secretary of State will find that Question 5700 deals with the situation when the responsible Minister has declined to carry out the wishes of the Governor, and Question 5704, Lord Salisbury's question, points out the fact that the local Police and others will depend very largely upon the Minister. If he will read one more question, I shall put my questions on these three questions. In Question No. 5665, the danger of the Governor not being kept familiar with the events happening in his Province is pointed out. Bearing these three questions in mind, may I ask the Secretary of State whether it is not the correct position that so far as the superior officers are concerned, their pay, pension, promotion, posting, even a vote of censure on their conduct, are all beyond the

competence of the Minister?—(Sir *Samuel Hoare*.) Broadly speaking, that is the case.

6582. Having regard to Proposal No. 69, which enables the Governor to require that information of certain kinds will be transmitted to him, do you think that the Governor would have any difficulty whatsoever in getting very full and accurate information of events happening in the Province?—My definite view is that he would not, that under 69, he can obtain whatever information he requires.

6583. May I have your opinion as to whether the Governor's position under the White Paper scheme proposals, is not something like this: Taking a purely theoretical point of view, his powers are limited but when an emergency or when a case of special responsibility does arise, he can take whatever action he thinks fit. Is that the theory?—Yes.

6584. And of what constitutes an occasion of a special responsibility the White Paper makes it perfectly clear that he will be the sole judge. That is so, is it?—Yes.

6585. I am asking a specific question, because some questions were put to you, Secretary of State, as regards the Intelligence branch of the C.I.D., and so on. Supposing the White Paper proposals remain as they are, and you do not introduce specific provisions about either the Intelligence branch or the C.I.D., under the proposals will there be the slightest difficulty in the Governor taking charge either of the Intelligence branch or of the C.I.D., or of the C.I.D. plus the section of the Police, whatever may be necessary, for meeting a situation which has arisen?—It is certainly our intention that the Governor should have full powers in those respects. We think that under the White Paper proposals, he has been given those powers. If, when it comes to drafting final proposals, it is found that he has not got those powers, obviously, if the policy is maintained as set out now in the White Paper, a further definition will have to be given to make it quite clear that he has got those powers.

6586. In your opinion, under the White Paper proposals, will there be any difficulty in this: For instance, the Governor,

having regard to an emergency situation, says: "I take over officers, A, B and C; two divisions of Police; one Inspector-General," and so on. "I take them over and attach them to my special Department relating to special responsibility." Will there be either Constitutional or administrative difficulty?—So far as I know, there should not be, but our definite intention is that the Governor should have what powers are required and, if it is found in drafting that he has not got those powers under the proposals as they are now, there must be a change in the drafting of the proposals.

6587. May I be permitted to ask Sir Malcolm Hailey if there will be any administrative difficulty in the way of the suggestion that I have made? I am not asking on the Constitutional aspect.—(*Sir Malcolm Hailey.*) No. If the Governor took over that special branch, he would give his orders through, no doubt, his own Secretary to the Inspector-General of Police, who would convey them to the special branch in exactly the same way as he would convey orders from the local Government had the Governor not exercised his special responsibilities.

6588. I think a previous answer covers this, but may I ask you specifically: Under the White Paper proposal there will be nothing to prevent the Governor, if he thinks necessary, from saying that Police information relating to certain kinds of crimes should be accessible only to certain individuals?—(*Sir Samuel Hoare.*) That is so.

6589. I draw your attention to a question put by Sir Austen Chamberlain, Question No. 5746. There Sir Austen points out that it is undesirable to have recourse more often than is necessary to special responsibility and breakdown clauses. I am quite sure that the Secretary of State fully agrees with that view?—Yes, entirely.

6590. If that is so, what I am asking you is this: Under the White Paper scheme which defines the powers of the Governor in connection with special responsibilities in very wide language, is it not more suitable than providing specifically that the Governor will have charge of the special branch in this way: That if the Governor has confidence in the Minister, or

if the Minister is willing to abide by necessary conventions, he may not bring into operation this section of special responsibility at all. Is that not the better policy, rather than specifying section 74 as part of reserving the special responsibility of the Governor?—That has been our view in making almost all the proposals of this kind in the White Paper. We wish to assume that these were exceptional powers and that the best way to deal with them was to give the Governors general powers rather than to set out in explicit detail a list of the actual ways in which he was to carry them in effect. That is really the general reason that has prompted us to take the line we have.

6591. You were asked certain questions about breakdowns, for instance, beginning at Question 5718. I will ask you one question about it. There have been previous instances of breakdowns under the present Constitution, for instance, in Bengal in 1924 and 1925?—Yes.

6592. It was pointed out by one of the Members of the Committee that when those breakdowns took place, there was the nucleus of the Executive Council—the Executive Member was there?—Yes.

6593. We know that he will not be there when a breakdown takes place under the proposed Constitution?—Yes.

6594. But remembering that the officer of the Superior Service, the Secretarial staff and practically every officer of every Department will be available to the Governor, do you really think there will be any difficulty in the King's administration being carried on if there is a breakdown?—No, I do not think there should be.

6595. I want to ask you one question which has not yet been answered, about the Second Chamber. You may remember that Dr. Shafa'at Ahmad Khan asked you whether or not there was a resolution in the Bengal Legislative Council against the institution of Second Chambers, and you gave certain answers. What I am asking you is this: If you take the Resolutions of the Bengal Council as an index, is it not the fact that on the 2nd August, 1932, this Council by a Majority of 47 to 52, the majority including 8 Muhammadans, passed a

Resolution against any communal or separate Muhammadan electorate. Would you say that that represents the true state of feeling in Bengal, having regard to your other information that there is no demand for communal electoral representation for Muhammadans?

• Dr. Shafa'at Ahmad Khan.] What was the proportion of those Muhammadans who voted for a separate electorate?

Sir N. N. Sircar.] The Resolution that was passed was against communal representation?

Mr. Zafrylla Khan.] My Lord Chairman, are we to go into these questions at this stage in connection with the Provincial Governments?

Sir N. N. Sircar.

6596. If I may put my question in this way: Are any of these resolutions, having regard to your other information, reliable as a safe guide for action?—I think we have got to pay great attention, of course, to the opinion of a Provincial Legislature, but I do not think we can necessarily bind ourselves to taking that as the exclusive or sole opinion that we have to take into account. Moreover, in the particular case of the voting upon the Bengal Second Chamber, I am inclined to think from the information that has come to me, that there was a good deal of misunderstanding in the voting to this extent that, at any rate, one of the communities was very nervous of the communal decision affecting the First Chamber being reversed in the Second Chamber. Now, quite obviously, a question of that kind can only be answered intelligently when it is known how the Second Chamber is going to be constituted, and without making any criticism of the Bengal Chamber or any of its Members, there is this fact that at the time the resolution was passed I do not think they knew the kind of way in which it was contemplated the Second Chambers should be formed.

6597. The last question is this: May I ask you generally, now that your attention has been drawn in your examination by so many members of the Committee to the possible dangers of the transfer of Law and Order, are you still definitely of



opinion that those dangers are amply safeguarded by the provisions made in the White Paper?—Yes, I think so. I would never be too definite in giving an answer of that kind until I have heard the further discussions of the Committee; but, so far as the Government are concerned, we have done our utmost assuming that Law and Order is going to be transferred, to ensure that the transference should take place in the safest possible conditions.

**COMMUNAL DECISION AND  
SIR SAMUEL HOARE.**



## COMMUNAL DECISION AND SIR SAMUEL HOARE.

• [While the Prime Minister warned the parties that if they failed to agree he would give a temporary decision on the Communal dispute, and while the Communal decision purports to be for ten years only, Sir N. N. Sircar contended that the Award was in fact permanent. This matter was clearly admitted by Sir Samuel Hoare in answer to the following question put to him by Sir N. N. Sircar on 20th July, 1933.]

*Sir N. N. Sircar.*

7223. I was going to ask the Secretary of State, if he will permit me: As the communal decision stands it means this: Assuming, for the sake of argument, one Party has got more than it ought to have it must assent to that being given away before, there can be any change at any time. You have got to get the assent of somebody who has got more than he ought to have?—If Sir N. Sircar makes that hypothesis, it is so.



**SIR S. HOARE CROSS-EXAMINED  
ON AWARD AND PACT.**



## **SIR S. HOARE CROSS-EXAMINED ON AWARD AND PACT.**

[Sir Samuel Hoare underwent a severe and searching cross-examination at the hands of Sir N. N. Sircar over the Communal Award and the Poona Pact.]

Most strenuous attempts were made by various delegates to prevent such cross-examination on the ground that the Communal decision was final. This question was debated, and Lord Linlithgow, the Chairman, allowed Sir N. N. Sircar to cross-examine Sir Samuel Hoare on these matters.

After the cross-examination was over a Muslim delegate complained that though the usual time limit was ten minutes only, Sir N. N. Sircar took full one hour in cross-examining the Secretary of State notwithstanding that the Chairman's bell had been rung at least twice for stopping the cross-examination.

Before Sir Samuel's cross-examination, Sir N. N. Sircar sent written interrogatories for admission by the Secretary of State of the figures relating to population ratios, etc.

By courtesy of Sir Samuel Hoare these figures were checked by the India Office in the presence of Sir N. N. Sircar, and were found to be correct. It will be seen that while Sir Samuel Hoare expressed his unwillingness to modify the Communal decision he could not deny any of the following matters :—

- (1) That the figures and ratios put by Sir N. N. Sircar were correct ;



- (2) That even the recommendation of the Bengal Government that the general seats (*i.e.* 199) should be divided among Hindus and Muslims according to population, ~~has~~ <sup>has</sup> not been followed;
- (3) That the Poona Pact is not signed by any Bengal Hindu;
- (4) That while the Government has said it cannot change its decision, it is open to the Committee to do so.]

*Sir N. N. Sircar.*

7459. My Lord Chairman, I think the Secretary of State has been informed that I sent certain figures to the India Office to be checked, to find out whether my figures were right or wrong? Is that not so?—Yes; we have had some figures sent to us by Sir Nripendra Sircar.

*Sir N. N. Sircar.*] I understand that some of the figures have been checked (I am making no grievance or complaint about it), and others have not been checked in the office.

*Marquess of Zetland.*] Could we be informed to what these figures refer?

*Sir N. N. Sircar.*

7460. I am putting that in my question now?—I am informed that figures have been checked, so far as we have been able to do so.

7461. My question is this: In the arrangement for seats for the Provinces, coming to Bengal, we know there is no allocation for Hindus, as such, but they come under the word “general”, which in Bengal practically means Hindus. Is that not so?—Yes.

7462. Now using the word general in that sense, in the sense in which it is used in the White Paper, that, I understand, as meaning everyone, except Muslims, Indian Christians

and Anglo-Indians and Europeans, is this fact correct—the proportion of the total population of all ages is 54.9 for Muslims, and 44.8 for the general constituencies?—Yes.

7463. If you come to adults, if you take ages over 20, is it correct that the proportion of Muslims to Hindus is 51.7 as against 48?—Yes.

7464. I do not know if your office has had time to check it, but in the census of 1931—I have got it here, Volume V, Part I, page 121—while the age groups are given in a summarised form, does it appear that between the ages of zero and 10, there is a predominance of Muslims over Hindus to the extent of 55 per cent., and there are 3,000,000 and a little more of Muhammadans between the ages of zero and 10. You have not checked that?—No. We have not been able to check these figures in detail.

*Mr. Zafrulla Khan.*] I have not the slightest objection to any questions that Sir Nripendra Sircar wishes to ask the Secretary of State on these points, and to press them in whatever detail he desires, but I do hope that if there is a similar attempt on this side, subsequently, to meet those points and to raise those points, the Committee and yourself will not complain that undue time is being taken up over the consideration of these matters.

*Chairman.*] That is quite understood.

Sir N. N. Sircar.

7465. Now is it correct that the total number of seats for the Bengal Legislature is 250 (I am talking of the Lower House), and out of it 31 seats cannot be touched either by Hindus or by Muslims, 25 for Europeans, 4 for Anglo-Indians and 2 for Indian Christians. Is that not so?—Yes.

7466. And I think you will agree that 31 seats out of 250 are taken up by Europeans, Anglo-Indians and Indian Christians, who between themselves, the three together form less than  $\frac{1}{4}$  per cent. of the population. I am not complaining at all, but is it the fact?—Put numerically, it is the fact, but Sir Nripendra

Sircar has just admitted it is not principally the numerical fact that we have taken into account.

7467. No. I have made it perfectly clear that I am not complaining about it; I only want to get the facts put in a very short form before the Committee. Is it the fact that if the 199 ordinary seats, those of the seats which are to be divided between the general and the Muslims, are divided according to the ratio of the adult population which I have quoted to you, then the result will be 103 Muslim seats and 96 general seats?—If they were divided in accordance with the adult population figure, did you say?

7468. Yes?—103 and 96; I think that is so.

7469. If they are divided according to the total population ratio, which your officers have agreed is 54.9 to 48, then there should be 108 Muslim seats and 90 general seats?—Yes.

7470. What has been awarded is 119 plus such seats as they can get out of the 20 special seats. What has been awarded to the Muslims is 119 seats plus such seats as they can get out of the 20 special seats?—Yes.

7471. May I draw your attention to the Volume which you have been kind enough to distribute to Members of the Committee and the Delegates, "Despatches from Provincial Governments in India containing proposals for Constitutional Reform." I am drawing your attention to page 59 of Command 3712?—What I am not quite clear about is, it is the opinions of the Provincial Governments, on what?

7472. On the Statutory Commission. If you would be so good as to look further on page 59, I am putting it as shortly as possible, the European Members of the Bengal Government say this: "After careful consideration of rival schemes, they have come to the conclusion that representation on the basis of population is the fairest method of distributing the seats in the general constituencies between the Muhammadans and non-Muhammadans, and they consider that any weightage which is to be given to the non-Muhammadans in respect of wealth, education or position, should be allowed for in the special and

not in the general constituencies." If this opinion, which was considered to be fair by the European Members of the Bengal Government, had been followed, then the 20 special seats would be left to take their own course, being liable to be captured by the Hindus, but the other 199 seats would be divided according to the population basis. I want to know, have you followed that principle in the communal decision?—I am not going to argue about the communal decision at all. I have made my position quite clear in the Memorandum. We did not wish to make the decision; it was forced upon us by all the communities in India; we did it with great reluctance. We took into account, of course, the Report of the Statutory Commission; we took into account every conceivable other kind of investigation and we had in every case the very full reports from the Provincial Governments.

7473. May I take up that point before the Committee? Is it not the fact that you have been forced to make the decision because the parties could not agree in spite of their endeavours to settle the dispute?—Yes.

7474. And is it not the fact that when from the Delhi Consultative Committee the telegram was sent to the Government to come to a decision, in the Proceedings it was made perfectly clear, particularly by the Muslim Members, that there was no question of arbitration, no question of award, and the matter would be open to challenge, if the decision went against any particular party? Was not that the position?—I am not sure whether any community ever said they would accept the decision or not when it was given. What I am quite sure about is that the communities failed to agree amongst themselves, and they then made it clear that the Government must give a decision. That decision we have given.

7475. I quite agree there; I will not pursue that point. There has been a Government decision—that I realise—but would it be correct to say, that so far as this Committee is concerned, it is quite open to them to inquire whether an injustice has been done to a community in Bengal?—I could not in any way restrict the activities of the Committee. I shall

take no part in those discussions at all, nor will any Member of the Government.

7476. Do I understand your position to be this: you were compelled to a decision. When I say you, Sir Samuel, I mean the British Government. The British Government was compelled to give a decision, because the parties could not agree, and in that decision they stated: "This is our final decision, so far as we are concerned. We cannot allow the Conferences to be held up, because you are fighting between yourselves?"—Yes.

7477. Having done that, you have carried out your undertaking and put that decision as part of the White Paper proposals?—Yes.

7478. When it has become a part of the White Paper proposals, these White Paper proposals, whether they are the result of complete agreement between parties or substantial agreement between parties, or because you had to come to some decision because they hopelessly failed to agree, for the purposes of this Committee and for the purposes of Parliament do they not stand on the same footing? They are proposals, every word of them being a proposal in the White Paper?—They are proposals that differ in this respect from the other proposals in the White Paper, namely, that upon those proposals the Government have said their last word.

\* 7479. I quite appreciate that so far as the Government is concerned, this is the last word. They cannot say: "We are going back upon the decision." I am not looking at the Government point of view. I am looking at the point of view of a party who is applying for justice to the Joint Committee and to Parliament. This communal decision is part and parcel of the White Paper proposals, like others?—I have just drawn attention to the fact in which it differs from the other proposals.

7480. I cannot argue further with you, Sir Samuel Hoare. The difference is so far as the Government is concerned. What is the difference, if you are pleased to answer it—if not, you will not, so far as the Joint Committee and Parliament are concerned, because in the one case you had to come to a decision because parties failed to agree, and, in another case, you came to a

decision because parties substantially agreed?—I think that is essentially a question that the Committee must decide. My own view is that it does differ substantially from the other questions in the White Paper, first of all, because the Government has said its last word upon these proposals; secondly, my own view, for what it is worth, is that if we reopen it here, this Committee will never come to an end, and there will never be any Constitutional proposals for India at all.

7481. May I deal with that bogey, that this Committee will never come to an end? If I put up this proposition for you for your consideration perhaps you will change your answer. I am limiting myself to Bengal. So far as the Bengal proposals are concerned, as they are to be found on page 93 of the White Paper proposals, supposing the Committee is not asked to disturb any of the questions decided, for instance, what you say is the principal question, whether there is going to be a special electorate for certain communities: the number of seats given to Labour, the number of seats given to the Universities, to landholders, to Europeans, to Anglo-Indians, to Christians, and various other things which are decided. One party appeals to the Joint Committee in this way. It says: "Keep all of them. We do not want to disturb anything; but there is no reason why, while you are dividing the ordinary seats between the Hindus and Muhammadans, you would not spare five minutes of your time to work out the proper quotas"?—My own view is that if the Committee wishes to re-open this aspect of the problem they will re-open the whole of the communal question, and that it is quite impossible in practice to re-open the questions on the lines suggested by Sir N. N. Sircar.

7482. Will you be pleased to state why it is impossible, if the other questions are not open, and if you do not go into the question of the number of Labour seats that are wanted?—I am pretty sure—I do not know whether the Indian Delegates will support me in this view—if we said that the communal position was open for discussion we should either talk about nothing else for the rest of our deliberations here, or three out of four of the Indian Delegates would say that they could not go on discussing

anything at all until the communal decision had been given once again.

7483. May I point out to Sir Samuel that in spite of that (I am not suggesting the whole of the communal award should be re-opened, and that these matters should be discussed endlessly before the Committee and that their time should be taken up) as a matter of fact you are actually examining witnesses on these questions, are you not?—To some extent we are. My own view would have been that it would have been better not even to go to that extent, but there were certain distinguished Indian gentlemen over here, and I think there was a good deal to be said for letting them come and make their case, even though it is accepted anyhow by the Government that the communal decision is not, at any rate so far as they are concerned, open for discussion.

7484. I quite appreciate the Government position, as I have said more than once, but there would be no sense in inviting witnesses to come here for the purpose of agreeing if it has been settled already that this question is not to be gone into at all?—I am giving my view as the Secretary of State for India. What view the Committee take ultimately about it is for the Committee to decide. I will give the Committee what advice I can upon the subject, and my advice will be against re-opening the question; but it is for them to decide whether they will take that advice or not.

7485. I shall ask you one more question about the ratio, and I then come to another question. Having regard to the figures which you have been good enough to admit (I am not going to repeat the figures of percentages and so on over again) there is no doubt on those figures that one Community has got sixteen seats more than its proportion of the population or any other consideration would justify?—I should not admit that conclusion at all.

7486. I will not argue with you, Sir Samuel Hoare, but I thought that followed from your last answer, when you said, according to the proportion of population, taking even the total population, not the adult population, there should be 90 general

seats and 109 Muslim seats?—It was a consideration to be taken into account. I do not say it was the only consideration. We had to take many considerations into account and that was not the only one we took into account.

7487. May I point out that every consideration which has been shown in the other cases has been denied to the Hindus? Take, for instance, the representation of European seats. I am not suggesting, as Mr. Ghuznavi has done in his note, that this is the widest weightage known in the world, and so on. I am accepting that their position in commerce and industry may justify 31 seats. The Government of Bengal suggested something should be done for the Hindu community. Never mind: let that go; you have not taken that into consideration at all. Have you, in connection with the Hindu ratio, taken any items into consideration, except population?—I am not prepared to go into the detailed reasons that have made us give this decision: It was made quite clear, when the communities themselves failed to agree, that the Government was to be given a free hand to take what decision it thought fair. It was always assumed that the decision would then pass to us, and we must be left completely free to take what decision we thought fair. I think every member of the two early Round Table Conferences accepted that decision. We did not want to give this decision. All I can say is that there was no part of the communal decision that caused us greater anxiety or over which we took more meticulous care than the question of Bengal. For days and weeks we investigated every aspect of the problem, and after this very long investigation, in which we were in constant touch with the Governor and the Government of Bengal and the Government of India, we came to the view that our decision was a fair one.

7488. May I get some facts before the Committee. I am not putting any argument; I only want to put some facts so that the Committee can get them in a short compass. The communal decision is dated the 17th August, 1932?—August 16th.



7489. In my copy it is the 17th. One day does not matter. Under this award or decision the net result was, as regards the depressed classes, that they would vote in the general constituencies, and their number of seats would be 10, and the arrangement would come to an end after 20 years. To put it very shortly, that was the decision?—Yes.

7490. The other date is the 18th August, 1932. That is the date on which Mahatma Gandhi wrote his letter to the Prime Minister—(I am quoting the words)—threatening a fast and saying: “This fast will cease if the British Government will revise their decision and withdraw their scheme of representation for the depressed classes.” Mahatma Gandhi wrote this letter to the Prime Minister threatening a fast and these consequences. Does that date agree with your information?—I have not got the dates here. I take it the dates are accurate.

7491. Will the Secretary of State accept this course? May I put all these dates in my questions, and, if there is any mistake it can subsequently be pointed out either by communication or by some other means?—Yes.

7492. I am giving the dates. On the 18th August that letter was written by Mahatma Gandhi to the Prime Minister. On the 8th September, 1932, the Prime Minister wrote back to Mahatma Gandhi, pointing out that the Prime Minister’s scheme, that is to say, the communal decision, had not separated the depressed classes from the Hindu community. The point is the date; on the 8th September the Prime Minister tried to reason with Mahatma Gandhi that nothing wrong had been done. ‘On the 15th September, 1932, Pandit Madan Mohan Malaviya issued a notification in some of the newspapers calling a Conference to be held at Delhi on the 17th and 18th September. The invitation as it appeared in the Press was stated to be “To a few friends.” That was on the 15th September, 1932. On the 16th September, 1932, another announcement was made by the same gentleman, Pandit Madan Mohan Malaviya, in the Press that the venue had been changed from Delhi to Bombay, and, on the 20th September, 1932, the fast which later on was described as the fast unto death, began. On the 24th September the condi-

tion of Mahatma Gandhi was announced to be very serious, and on the 25th September, 1932, the pact was signed. These are the dates I am giving to you. You can subsequently either correct them or accept them?—Yes.

7493. In my next question I am giving you some other dates, and I will not press for an answer if you are not prepared with an answer just now, but I am only indicating my case broadly because I shall call witnesses on these points to prove these facts. The pact was signed at Poona on the 25th September, 1932. In this pact there are many signatories. I do not want to read out all the names. There is no signatory representing the Bengal Hindus, and the very next day, on the 26th September, 1932, at Delhi, at 11 o'clock, the Home Member announced the acceptance of the pact by His Majesty's Government, and he said: "His Majesty's Government has learned with great satisfaction that an agreement has been reached between the leaders of the depressed classes and the rest of the Hindu community." That was the very next day it was announced in the Assembly. These are the dates if you will kindly check them. May I take it, judging by those, as also by your answers which you were pleased to give yesterday, that the Government here was under the impression that an agreement had been reached between the leaders of the depressed classes and the rest of the Hindu community? That must have been your impression?—I will answer your question when you have finished it.

7494. I have finished this question.—The Government, rightly or wrongly, have, under the terms of paragraph 4 of their original Communal Award accepted the Poona Pact as an All-India agreement between the parties concerned, that is to say, between the depressed classes and other Hindus. Everyone in public life in India must have known that the negotiations from which the Poona Pact emerged were in progress, and it was to be presumed that any interested parties would take steps to secure that their views were not overlooked. It is perhaps not without significance (and I would draw the attention of the Committee to this fact) that no protest from Bengal

seems to have come for a considerable time after the announcement of the Pact. Indeed, during the course of the discussions we received scores of telegrams in favour of the Pact; not a telegram against it, and, amongst those scores of telegrams, I remember offhand a telegram from a very distinguished Hindu in Bengal, Sir Rabindranath Tagore. I do not know when protests first began to be made in Bengal, and I cannot trace that any representations were made to His Majesty's Government until something like three months after their acceptance of the Poona Pact. The Government expresses no opinion on the merits of the Pact in relation to Bengal. They would, of course, be perfectly ready to accept any modification in respect of Bengal reached by mutual agreement between the parties concerned, but the Government, as a Government, is precluded by the terms of its original communal award, from itself taking part in any negotiations towards that end.

*Mr. M. R. Jayaker.*

7495. What was the nature of the telegram sent by Sir Rabindranath Tagore? Did he approve of the Pact?—Urging the Government to accept the Pact.

*Sir Tej Bahadur Sapru.*] May I, Sir Samuel Hoare, tell you and the Committee one thing with regard to this matter? Both Mr. Jayaker and I happened to be in Poona for about four or five days during the progress of these negotiations. I have a very distinct recollection that telegrams were received from Bengali Hindus. I, personally, received a telegram from two or three important Bengali Hindus. I have not got those telegrams here, but I will further add that Sir Rabindranath did pay a visit to Mr. Gandhi in jail at the time, or shortly after the opening of the fast. That is my recollection. I am speaking subject to correction.

*Sir Hari Singh Gour.*] He did.

*Sir Tej Bahadur Sapru.*] There was some sort of ceremony held. I left Poona immediately after the signing of the Pact; all this happened after I left. Probably, Mr. Jayaker was there, and he will be able to make a statement.

Mr. M. R. Jayaker.] I was not there when Sir Rabindranath Tagore called; I was not present in Poona.

*Sir N. N. Sircar.*

7496. Is Sir Samuel Hoare aware that Sir Rabindranath Tagore is a Brahmo?—I take it from Sir Nripendra Sircar that that is so. The indisputable fact, however, is that for many weeks we received almost countless telegrams and letters from India urging the acceptance of the Pact and not a single protest against it.

7497. I will not go into minute details, because I am waiting for evidence to be called upon this point, but have you scrutinised those telegrams? Whether they were all coming from Congress people?—They were all coming from Hindus, and I would not for a moment accept the suggestion that they came exclusively from Congress Hindus.

7498. As regards sufficient protest not having been made at or about the time and telegrams coming from some people, may I put this situation to you, that when Mahatma Gandhi uttered that threat, it was not a question merely of a large section of the Hindus being ground down. Is it not right to say that that was the position also of His Majesty's Government?—That never entered into our minds at all.

7499. Let me put it to you, if it strikes you now in that way. When he said: "I am going to fast myself to death unless the British Government do this, that, and the other", you did not point out to him section 508 of the Indian Penal Code and say: "This is a crime, but we propose now to let you out of jail." Was not that His Majesty's Government's understanding also, because of overriding considerations, because if the man had been allowed to carry out his fast, tremendous consequences might have arisen. Therefore, you not merely acquiesced in what was an offence under the Indian Penal Code, but your offer was that a man who ought to be kept in jail for other reasons, should now come out into the open. I am putting to you this?—Sir Nripendra Sircar can rest assured that we did not in any way act under any sort of threat or in any

atmosphere of emergency. The only aspect of the question to which we looked was this: Was the agreement reached an agreement such as we had contemplated under the communal decision, judged by the evidence that was available to us? Then, and for many weeks subsequently, it seemed to us quite conclusive that it was such an agreement. " "

7500. I think you are aware that a representation was made to the Prime Minister by a letter from me in December, 1932, enclosing certain telegrams which had come here in November from members of the Bengal Council?—I am aware that Sir Nripendra Sircar has taken a very close interest in the question from start to finish.

Sir N. N. Sircar.] I sent that letter on to the Prime Minister as requested by the Members of the Council, and you will find that before I sent to the Prime Minister the telegram of protest from 25 Members of the Bengal Council that Bengal was not represented and so on, it was shown to Dr. Ambedkar, who sent a telegram to Bombay to find out what their reply to this telegram was. I thought it fair to show it to him, so that he could get his version from Bombay, and this is the reply which he got.

Dr. B. R. Ambedkar.] I am sure I did not do anything of the sort, if Sir Nripendra Sircar will forgive me. Sir Nripendra Sircar represented that he showed to me a certain telegram and asked me to get certain information about it from Bombay. I did not do anything of the sort. "

Sir N. N. Sircar.] I have got the copy which was handed over to me by Dr. Ambedkar, and I will read to you the reply which he got. "

Dr. B. R. Ambedkar.] It is not a reply ; it is an independent telegram sent to me.

Sir N. N. Sircar.] The point is the contents of the telegram, which said that the Bengal Hindus are bound by reason of their default in not appearing at Bombay, that is to say, it was put on the ground that we were bound because we had not

taken part in the Pact. I think you must have found that in the telegrams that were sent to the Prime Minister.

*Witness.*] I think it is very unfortunate that those telegrams were only sent in December, and were not sent when the negotiations were actually in progress.

• 7501-2. The telegram was in November. It was sent in December, because I was waiting for the replies, and so on, and the Bengal Council met for the first time after these negotiations in November. As soon as they met, 25 members sent this telegram, or representation, to the Prime Minister. I only wanted to point out to you that whatever may be said, it has been the case that Bengal has gone by default. The case of Bengal has never been made, even in that telegram. Now the next matter to which I draw your attention is a very short one. Does Sir Samuel Hoare agree with the view that the situation which has been created as the result of the Poona Pact, and the communal decision, will lead to very terrible and serious consequences in Bengal?—No, I do not think I do.

7503. Is it your opinion that if the vastly preponderating majority of seats of the Muhammadans, 119 seats, are reduced by 10 or 12 seats, that will lead to terrible consequences in Bengal?—I do not accept the phrase, “vastly preponderating majority”, nor do I think that the result will be disastrous.

7504. I am now going to another point altogether for certain information; I think I gave notice of this to your office as well, Sir Samuel. Without going into details, you may remember that when Mr. James, of the European Association, was in the Witness box, and also Sir Edward Benthall, they said that there was a general feeling of nervousness in Bengal about the large expansion of the franchise and the large number of seats allocated to Bengal. In connection with that, I put a query, or rather asked the India Office to supply you with certain information, and my question is this: In Bengal the recommendation of the Lothian Committee has been to enfranchise 16 per cent. of the total population against  $7\frac{1}{2}$  per cent., the maximum recommended by the Government of Bengal, and 10 per cent. recommended by the Bengal Provincial Committee

which acted in connection with the Lothian Committee. The information I want is this: I am not talking of the question of ratio—that is quite a separate chapter altogether—but assuming that the number of seats is reduced to 200 from 250, and the franchise is accepted at 10 per cent. as recommended by the Bengal Provincial Committee, as against 16 per cent. recommended by the Franchise Committee, what will be the difference in expense? I want only a rough estimate, if that is possible?—The only figure that I have is an estimate from the Bengal Government of the additional annual expenditure on the Legislature, if the White Paper proposals are adopted. That estimate is  $1\frac{3}{4}$  lakhs per annum recurring, with capital expenditure of  $6\frac{1}{2}$  lakhs on fresh accommodation for the Upper Chamber. It is not stated how much of the recurring cost is due to the Second Chamber. The additional cost of each general election, taking the White Paper franchise, which would yield 15 per cent. of the population, is given as 11 lakhs. I cannot give any very accurate answers to these questions, but it would appear that, roughly speaking, the saving, if no Second Chamber were established, and the Lower Chamber were 200 instead of 250, would be something like 1 to  $1\frac{1}{4}$  lakhs a year, with a saving in capital expenditure of  $6\frac{1}{2}$  lakhs, and that the reduction in the electorate would save an approximate sum of from 1 to  $1\frac{1}{4}$  lakhs a year, assuming on the average a general election to be held every three years.

*Sir Hari Singh Gour.*

7505. Five years?—We were assuming three years. We were assuming that we had better take a very conservative estimate.

*Sir N. N. Sircar.*

7506. From your answer, I gather that it is not possible for you to say what is going to be the estimated cost of the Second Chamber only as provided for in the White Paper?—I have not got any figure available. If I can get at a more accurate figure, I will let Sir Nripendra Sircar have it.

7507. Now another question is this; I think it will be

the last I shall ask you, Sir Samuel. You may remember when I put to Mr. Villiers that if the number is reduced to 200 from 250—I am talking of the number of seats, and again I am not going into the question of ratio on this part of the case—he said there would be no further difficulty in the matter of getting representation of all the interests involved in Bengal, of the Muhammadans; the Hindus, the Depressed Classes, and so on. Have you any definite views on the matter? Do you think there will be any difficulty? Is there any necessity for this number of 250?—I do not think I should go so far as to say that any particular number is verbally inspired. What I can say is that taking into account the very many interests in Bengal, and taking into account also the problem of the communities, 250 seemed to us to be a good number. I will not put it higher than that.

7508. I think I take your answer to mean that you are not in the position definitely to differ from Mr. Villiers's opinion that 200 might do?—I would neither differ from it, nor would I agree with it. These problems of representation in Bengal are so complicated and so controversial that I would rather not express an opinion.

7509. My last question will be this: Do you think there is any objection—I gather you have no objection from your last answer—or would you think it advisable to have an inquiry into this matter as to whether there is really any necessity for 250 members?—Offhand, I should hesitate to support a special inquiry of that kind anywhere. I think it would immediately open the floodgates to inquiries all over India. After all, we have made this recommendation as the result of two or three years of discussions of this and cognate questions.

Sir N. N. Sircar.]<sup>b</sup> That is all I ask, thank you.





**MINISTERS' SALARIES AND EXPORT  
DUTY. ON JUTE.**



## MINISTERS' SALARIES AND EXPORT DUTY ON JUTE.

• [Sir N. N. Sircar cross-examined Sir Samuel Hoare on Proposal No. 68 of the Secretary of State's recommendations which refers to provision for Ministers' salaries under the new Constitution. He also put questions relating to the export duty on jute (Proposal No. 137). Sir N. N. Sircar's questions and the Secretary of State's answers are given below.]

*Sir N. N. Sircar.*

8221. May I draw the attention of the Secretary of State to Proposal 68 which refers to Ministers' salaries, on page 55 of the book given to us?—Yes.

8222. Has the Secretary of State applied his mind to the amount of the salary which he would advise being fixed for the Ministers?—Does Sir Nripendra suggest we should put the figure in the Constitution Act?

8223. No, I am not concerned with the method by which it should be done, but I am applying my mind rather to the quantum—the amount which should be paid to the Minister?—I cannot say that I have a precise figure in my mind. I would, however, impress upon the minds of the Committee and of the Delegates that in the present state of Indian finances there is no scope for very high salaries.

8224. Having regard to your last answer, may I ask you to consider this, that, as a matter of fact, the feeling is very general that the salaries now enjoyed by the Ministers are out of all proportion to the resources of our Province, and whenever there has been any opposition to the reduction of salary, while everyone has agreed that the salary has been too high, it has been opposed by some on the ground that it will not do to have different salaries for the member of the Council and for the

Minister. Would the Secretary of State be good enough to bear these facts in mind and to make such inquiries as he thinks fit?—I will certainly bear these facts in mind and I would like to receive the views of representative Indians upon the question. Offhand, it does not seem apparent to me why there should be complete uniformity in the matter of this kind. Here in England there is great diversity in actual practice.

Mr. *Zafrulla Khan*.] Is it not a fact in practice that in some cases the salary of the Minister has been reduced much below the figure for the Executive Councillor? In practice that has been done.

Sir *N. N. Sircar*.

8225. Yes?—Yes, I think that is so.

Sir *N. N. Sircar*.] That has been done in Bihar and Orissa. Sir *Hari Singh Gour*.] Also in the Central Provinces.

Sir *N. N. Sircar*.

8226. I propose to ask some questions with reference to No. 137, the proposal which relates to the export duty on jute. I believe the Secretary of State remembers the evidence which has been given on this point by Sir Edward Benthall, amongst others. I am asking him, does he agree with his view, that this tax, having regard to the facts of the case, has the same incidence as Land Revenue?—The Government of Bengal has always claimed that the jute export duty belongs to Bengal. I am not aware that the Government of India have ever committed themselves to the suggested principle. They are, nevertheless, as I am, fully aware of the special difficulties of Bengal which make it imperative to give some relief. As Sir Nripendra will see under the White Paper proposals at least half the jute export taxes must be assigned to Bengal, or, more strictly speaking, to the producing units, leaving a power to the Federal Legislature to assign a greater share. I do not myself think that it would be profitable to enter upon an economic discussion as to the nature of a jute export duty and its similarity to or differences from Land Revenue.

8227. If I may say so with great respect to you, I likewise agree. I only want to bring out one fact so that you may be pleased to consider it. So far as the economics are concerned (I mean in the economic sphere) is it not a fact that Bengal, as compared to other Provinces, may be described as a consumers' Province? What I mean is this: The taxes which have been levied are on salt, wheat, iron, steel, cotton piece goods, and so on, and that really means profit to the other Provinces that Bengal has got to pay. Is not that the general situation? At any rate, I find that is the view as expressed by the Government of Bengal?—I do not think I should dissent from it.

Sir A. P. Patro.] Is it not a fact that Bengal is, on account of the permanent settlement, not able to make up the necessary revenue?

Sir N. N. Sircar.] I have no objection to the question, but it only proves that Sir A. P. Patro, as other non-Bengalis are, is in a state of hopeless confusion over the permanent settlement.

Mr. Zafrulla Khan.] Do I understand Bengal is suffering from the permanent settlement?

Sir N. N. Sircar.] Yes.

Mr. Zafrulla Khan.] Why not do away with it?

Sir N. N. Sircar.] May I ask some questions on that?

Witness.] May I ask for the authority of the Committee to publish the Memoranda which I have already circulated, namely, the Memoranda on the Courts, the Instruments of Instruction, the Railway Board, and also a note which I suggest circulating to the Committee upon the cost of the Legislature? I understand there is no authority under which those reports can actually be published?

*Sir Austen Chamberlain.*

8228. You mean you want them handed in and made part of our published proceedings?—Made part of the proceedings. They are part of my evidence.

*Marquess of Salisbury.*

8229. They will be laid before Parliament?—Yes, just in the same way as my other Memoranda have been.

Sir *Austen Chamberlain*.] I assume the Committee agrees.  
(*Agreed.*) " "

Sir *N. N. Sircar*.] I have no further questions to ask.

**EXAMINATION OF MAHASABHA  
WITNESSES.**





## EXAMINATION OF MAHASABHA WITNESSES.

[In regard to witnesses from Hindu Mahasabha, viz., Dr. Moonje, Messrs. B. C. Chatterjee, J. L. Bannerjee, and others, strenuous objections were raised by most of the Indian delegates to Sir N. N. Sircar putting any questions to them about the Poona Pact and the Communal decision, as will appear from the following extracts from the proceedings of 31st July, 1933.]

*Chairman.*] My Lords and gentlemen, I apologise for the few minutes' delay, but one of the Witnesses has handed in a Memorandum at the last moment, and, unfortunately, there are not sufficient copies to go round the Committee and the Delegates. It is numbered 71. I would decline to take it at this stage, if I did not feel perfectly certain that the only effect of that refusal would be to have it read at length. Before we proceed to hear the Witnesses this morning, I should like the Committee and the Delegates to know that my Noble friend, Lord Zetland, was good enough to hand me in this written question: "To ask the Lord Chairman if, in view of the representations on the subject of the Communal Award contained in the Memorandum of evidence put in on behalf of the Hindu Mahasabha and other organisations, questions to the Witnesses upon that subject will be in order"? As I informed the Noble Lord privately, I am bound to rule that such questions would be in order.

*Earl Peel.*] My Lord Chairman, does that mean that we are at liberty to open up the whole of the question of the Communal Award?

*Chairman.*] It does.

*Marquess of Reading.*] That means not restricted in any way to the Poona Pact, but the whole of the Communal question, including the Government's Award.

*Chairman.*] Lord Reading will appreciate that I am dealing with a point of order, not of expediency.

*Marquess of Reading.*] Quite.

*Marquess of Zetland.*] May I say with regard to that, that I have not the slightest desire to open up the whole of the Communal Award, but there are certain questions which, in view of the evidence which has been put in by these witnesses, I should desire to ask with regard to the position in Bengal only. I do not want to go beyond Bengal at all.

*Sir A. P. Patro.*] If it is referred to in the case of Bengai, it will refer to all the other Provinces generally.

*Marquess of Salisbury.*] My Lord Chairman, I feel strongly of opinion that whatever may be the expediency of the matter, it is quite out of the question that, if we are asked to come to a decision as a Joint Select Committee upon this whole issue, we should exclude the Communal Award. That, evidently, is impossible. The point really arose a little earlier in our Proceedings, and I think the same opinion was expressed. I certainly earnestly hope that Lord Zetland will do what he thinks is right in the matter of the Communal Award.

*Mr. Butler.*] If we are to have a discussion on the Communal Award, perhaps, I ought to say that the position of the Government is no different from what has been expressed by the Secretary of State before.

*Mr. Zafarulla Khan.*] My Lord Chairman, we have naturally neither the right nor any desire to make a submission to the Committee as to what they shall do, and what they shall not do; of course, it is their right to put any questions they like; nor do I assume, merely from the fact that on the Procedure such questions are permissible, that the Committee necessarily wish to re-open the Communal Award; but I do wish to say this, at this stage, for the Committee's consideration, that, as the Committee is fully aware, at one stage the business of the Round

Table Conference came absolutely to a standstill, owing to these Communal questions not being settled; subsequently an Award was given. It may be, that the Award has not fully satisfied any section; perhaps, it could not have satisfied any section completely; but some of us desired to proceed with the consideration of the further stages of Constitutional advance, because an award had been given, and we thought the best course was to proceed on the basis of it, and we merely wish to say this at the present stage: That whatever the Constitutional position may be, and whatever the rights of the Committee may be, our association in these further stages is clearly based upon the Award being taken as a final pronouncement upon the matter.

*Sir N. N. Sircar.*] May I make a short statement which probably will shorten matters? I claim the right to put questions, if the Committee will allow it, on the Communal decision, but, as a matter of fact, I do not intend to put in any questions relating to the dispute between the Hindus and Muslims, because that does not depend upon any facts that are going to be proved by any witness, but I do want to ask the witnesses to give your Lordships the facts relating to the Poona Pact. There is one observation I may be permitted to make as regards Sir Annepu Patro's statement as to its being mixed up, and so on. I submit that the decision itself makes it quite clear that the result of one Province is not connected with the result in any other Province. The decision itself says that any change can be made in one Province as distinct from any other Province. As regards my friend, Mr. Zafrulla Khan's statement, I only venture to submit this: At the Round Table Conference we were trying to find out what was the greatest measure of agreement. It was open to us to say: Unless I get 100 per cent. seats for Hindus, I will not take any further part. It is no good taking up that attitude. I beg of the Committee to enter into the merits of the question.

*Sir Abdur Rahim.*] My Lord Chairman, may I say one word about this? I have come here, not strictly speaking as a Member of the Muslim Delegation, but when I received the offer from His Majesty's Government to come and join the

deliberations of the Joint Select Committee, the one great inducement was that this controversial question was out of the way. As a matter of fact, for some time I have not been taking any part at all in these Communal disputes, and I would not have thought of coming here and joining the deliberations, but for the fact that this question was out of the way, as I thought. Therefore, my position would be the same as that of Chaudhuri Zafrulla Khan, who has been speaking on behalf of the Muslim Delegation. But for the fact that I thought that this Communal question had been put out of the way once for all, so far as this proposed Constitution Act is concerned, I would not have come to these deliberations.

*Dr. B. R. Ambedkar.*] Might I say that the sentiments expressed by Chaudhuri Zafrulla Khan with regard to the attitude of the Muslims were exactly the sentiments that I have been expressing from the very beginning when I commenced to take part in the Round Table Conference, and that I, too, consented to join in the deliberations on the understanding that the Poona Pact was an accepted proposition? I do not object, of course, to Sir Nripendra Sircar putting the facts before the Committee, because I know I will also get an opportunity to rectify any errors; but, so far as my own position is concerned, I do not think that it would be possible for me to take any further part in the Proceedings of the Committee, if, for instance, the whole question was re-opened with regard to the representation of the Depressed Classes.

*Mr. M. R. Jayakar.*] May I say a few words? I just wish to state that on this side myself and a few of my friends do not propose to ask any questions relating to the Hindu-Muslim side of the Communal Award. We feel that if we were to go into that question, it would take hours and hours of questioning and cross-questioning, and I am anxious to save the time of the Committee. I have no desire to dictate to the Committee what they should do, because I know they have the power of going into the whole question. I am only speaking for the attitude of myself and a few friends on this side.

*Sir A. P. Patro.*] As one connected with the settlement of this Communal question for a long time, I will beg, and most earnestly appeal, to the Honourable Members of the Committee not to allow this question to be brought up again. After a great many struggles, trials and attempts, we failed, and we submitted our case to His Majesty's Government. The Award is passed, and the Award is generally accepted in India, and on the basis of that Award, we have all been arguing, and advocating, and placing our claims. It will be a great misfortune to the country if again an opportunity is given to re-open the whole matter; I, therefore, venture to appeal to the Members of the Committee to bear that in mind in the interests of peace, harmony and contentment in India. On behalf of all the agricultural population whom I represent I beg to place this view of the matter before you for very serious consideration.

*Dr. Shafa'at Ahmad Khan.*] My Lord Chairman, I associate myself with what Sir Annepu Patro has said.

*Sir Henry Gidney.*] I associate myself whole-heartedly with what Chaudhuri Zafrulla Khan has said. At the Round Table Conference we came to an amicable pact amongst certain of our communities, and other communities had the opportunity to join that settlement, but we have taken as final the settlement of the Government in the Communal Award.

*Sir N. N. Sircar.*] I beg your Lordship's permission to hand in at this stage the following letter\* from myself to the Prime Minister and a cablegram from Sir Rabindranath Tagore dated 27th July, 1933:—

CABLEGRAM FROM SIR RABINDRANATH TAGORE TO  
SIR N. N. SIRCAR DATED 27TH JULY, 1933.

I remember to have sent a cable to the Prime Minister requesting him not to delay in accepting the proposal about Communal Award submitted to him by Mahatmaji. At that moment a situation had been created which was extremely painful, not affording us the least time or peace of mind to enable

---

\*Copy of this letter will be found printed on page 81 of this volume.

us to think quietly about the possible consequences of the Poona Pact, which had been effected before my arrival when Sapru and Jayakar had already left, with the help of members among whom there was not a single responsible representative from Bengal. Upon the immediate settlement of this question Mahatmaji's life depended and the intolerable anxiety caused by such a crisis drove me precipitately to a commitment which I now realise as a wrong done against our country's permanent interest. Never having experience in political dealings, while entertaining a great love for Mahatmaji and a complete faith in his wisdom in Indian politics, I dared not wait for further consideration, not heeding that justice had been sacrificed in case of Bengal. I have not the least doubt now that such an injustice will continue to cause mischief for all parties concerned, keeping alive the spirit of communal conflict in our Province in an intense form, making peaceful government perpetually difficult.

RABINDRANATH TAGORE.

## FACTS RELATING TO POONA PACT





## FACTS RELATING TO POONA PACT.

[In spite of objections raised by Chaudhuri Zafar-ulla Khan, Dr. Shafa'at Ahmad Khan, Sir Henry Gidney, Dr. Ambedkar, Mr. Jayakar and Sir A. P. Patro, the Chairman allowed Sir N. N. Sircar to put the following questions to the witnesses for eliciting facts relating to the Poona Pact and to find out whether they would be prepared to work the Constitution.]

*Sir N. N. Sircar.*

8707. I desire to put some questions with the idea of getting the facts relating to the Poona Pact. I want whoever chooses to answer the question. I do not want the witnesses to go into any dispute between the Hindus and the Moslems as regards representation in the Council. I put certain dates to the Secretary of State, and I will just repeat them to you. The Communal Decision is dated the 17th August, 1932. Mr. Gandhi's letter to the Prime Minister is dated the 18th August, 1932, in which he says, among other things: "This fast will cease if British Government revise their decision and withdraw their scheme of Communal electorates for the Depressed Classes, whose representatives shall be elected by general electorate under common Franchise." Then there was a reply from the Prime Minister dated 8th September, 1932, in which the Prime Minister pointed out that his scheme was not intended to separate the depressed classes from the other Hindus, and so on. Now I come to the next date. I would like to ask you something about it. On the 15th September, you remember Pandit Madan Mohan Malaviya issued a notice in the newspapers inviting some friends. His exact words were: "To a few friends to hold a meeting for the consideration, etc." Will you kindly tell the Committee who is Pandit Malaviya?—(Dr. Moonje.) Pandit Malaviya is a respectable citizen of India, and at one time my

leader. (*Mr. Bannerjee.*) He was twice President of the Indian National Congress.

8708. I wanted to know if he was a Hindu?—(*Dr. Moonje.*) Yes.

8709. But on the 16th September Pandit Malaviya announced that the venue would be changed from Bombay to Delhi?—Yes.

8710. This fast unto death began on the 30th September, 1932. To cut the matter short, ultimately the Pact was signed on the 25th September, 1932. Is that so?—Yes.

8711. You were there?—I was not there in Poona when the Pact was signed.

8712. You were at Bombay?—I was in Delhi.

8713. It was signed on the 25th September, 1932, as you have told us, and, on the 26th September, the very next day, at 11 o'clock in the morning, the Home Member announced in the Assembly at Simla that His Majesty's Government had accepted the Pact. I shall ask the Bengal witness this: between the evening of the 25th September and 11 o'clock on the 26th September, 1932, where was the Government of Bengal? Was it in Calcutta or in the Hills?—(*Mr. Bannerjee.*) It was at Darjeeling in the Hills.

8714. Before acceptance of the Pact by His Majesty's Government next morning, or may be earlier, were any of the representative Hindus, or any Hindus, to your knowledge, sent for by the Government for inquiring whether they were agreeable to accept this Pact?—I could not speak for any Hindu, but in any case no member of the Bengal Legislative Council was consulted, and, so far as my information goes, no representative Hindu was asked his opinion on the question.

8715. Was any representative of the Bengal Hindu Sabha sent for, or inquiry made by telegram whether the Bengal Hindus were willing to accept the Pact?—No inquiry was made by the Government of Bengal of any representative Hindu from Bengal.

8716. I want to take you to the next period of time. The Pact having been accepted, or rather acceptance having been announced, on the next day, the 26th September, was any protest, or objection made by Bengal Hindus, first of all, either in newspapers or in meetings, or anywhere?—Yes.

8717. Will you tell us very shortly what was done and by whom?—No concerted action was taken immediately, but individual protests were made in the newspapers as early as the 29th September by members of the Bengal Legislative Council. I, myself, a member of the Bengal Legislative Council, protested against the Pact in a letter to the *Statesman* newspaper. Within a week from that time Mr. N. K. Basu, a member of the Bengal Legislative Council, protested against that in a letter to the *Amrita Bazar Patrika*; within a fortnight Mr. B. C. Chatterjee, who is also here, sent a series of letters to the *Amrita Bazar Patrika* and the *Liberty*. There were individual protests. At that time the Bengal Legislative Council was not sitting. Its next Session commenced in November. Immediately after the commencement of the Session 25 Members of the Bengal Legislative Council sent a telegram of protest to the Prime Minister, or I believe, to Sir N. N. Sircar who was here, for the purpose of forwarding it to the Prime Minister. After that there have been various protests. Shall I go into details?

8718. Very concisely if you can give the facts?—On the 11th January at a representative meeting presided over by Sir B. B. Ghosh, a member of the Executive Council of the Viceroy, a protest was recorded against the terms of the Poona Pact and since then the Bengal Legislative Council at its meeting of the 14th March has adopted a resolution protesting against the Pact.

8719. Will you take it from me (it appears from the printed evidence) that Sir Tej Bahadur Sapru informed the Committee that two or three important Bengali Hindus had cabled to him accepting the Pact. I wrote to Sir Tej Bahadur Sapru, and his present recollection is that he does not remember the names or the description of any of these Bengali Hindus except that one is some Rajah from Kurseong. Can you tell us who he is?—No, I have no idea, nor do I think there is any such person.

nor is there any representative Bengali who would send a telegram to Sir Tej Sapru.

8720. You may take it from me that Dr. Ambedkar stated from his seat here, that seven Members of the Caste Hindus were present when the Pact was made. I wrote to Dr. Ambedkar on the 23rd July, and put it to him that it would be fair even now to disclose the names of these witnesses so that I could get their status and position from the Bengal witnesses. I have not received any reply. May I ask you, so far as your information goes, first of all, was any Bengali or representative Bengali present at Poona? I am proceeding backwards?—Present at Poona at the time of the signing of the Pact?

8721. Present at Poona at the time of the signing of the Pact, or very shortly before, or about that time?—So far as my information goes, only two Bengalis were present at Poona at the time. One of them is a caste Hindu, but that one also did not occupy any representative position there, nor had he been deputed by any public association of Bengal to go and sign the Pact.

8722. What about the other Bengali?—The other Bengali was a Namasudra belonging to the depressed classes.

8723. Did any Bengali caste Hindu sign this Pact?—No, no Bengali caste Hindu signed this Pact.

8724. Do you know, as a matter of fact, when the party went down to Poona from Bombay?—I do not remember the date.

8725. You referred to a certain telegram which had been sent by the 25 members of the Legislative Council and the replies and so on. I have tendered my letter of the 14th December, 1932, from myself to the Prime Minister, which contains those telegrams. (See page 31 of this work). The Committee was further informed by Dr. Ambedkar that he had sent a letter to the Prime Minister. I asked for a copy; I have not got it. Have you any knowledge about a letter that was sent by Dr. Ambedkar to the Prime Minister?—I do not know anything about it.

8726. As a matter of fact, in spite of the reason given for the fast, namely, that the fast would continue unless the scheme of communal electorates disappeared, or until that was revised by His Majesty's Government, there was no demand by Mr. Gandhi for an increase of seats?—No specific demand on the part of Mahatma Gandhi.

8727. He put it on the ground that this communal electorate would disrupt and vivisect Hindus: that was the ground?—Yes.

8728. Tell me very shortly what has been the result of the Pact. See if I am right. Under the original communal decision, which we submit ought to be accepted on this point, the allocation for Bengal as regards the Depressed Classes was ten?—Not to exceed ten. A maximum of ten was the language of the Government.

8729. Under the Poona Pact the number is increased to thirty?—Yes.

8730. In addition to the thirty, is it not a fact that the Depressed Classes practically (if I may use the expression "fighting classes") form 60 or 70 per cent. of the population in portions of East Bengal and of North Bengal?—Yes.

8731. As a matter of fact, at the present moment there are six or seven Members from this class without any help of any Pact, or things of that kind?—Yes; five Members belonging to the Namasudra and the Rajbangshi.

8732. There are at present six or seven without any help. In the increased Council, can you form any kind of rough estimate as to the number of seats they can get in addition to the thirty?—Apart from the thirty reserved for them, they are sure to get at least a dozen seats.

*Mr. M. R. Jayaker.*

8733. Who?—The Namasudra and the Rajbangshi—the Depressed Classes, to put generally.

*Sir N. N. Sircar.*

8734. I do not want to get into details about caste and so on—that would take too much time—but these two castes form about 2,000,000?—Thirty-four lakhs precisely—3½ million.

8735. They had been, ever since about 1911, getting themselves returned in the Census returns as belonging to the higher class, and in fact one of this class still uses the sacred thread?—The Rajbangshi. The Namasudra also are a very advanced community.

8736. In answer to certain questions which you put in the Bengal Council, Mr. Prentice said that in sending the list here of the scheduled castes, he had not followed the recommendations of the Lothian Committee nor did he apply any criteria at all but that he had simply put forward such castes as he thought to be politically and socially backward. You put those questions?—I put certain questions.

[*Mr. Butler.*] Before we leave that point, if you study the White Paper, on page 124, the word “provisional” is included after the names of the scheduled castes in Bengal.

*Sir N. N. Sircar.*

8737. I realise it is provisional. In answer to another question, he said there were 4,500 objections on behalf of different communities. They were all objecting to be included in this class, and Mr. Prentice said he would read them when he went to the hills?—Yes.

8738. Have you subsequently been told what has been the result of the investigation as to these Depressed Classes?—The result has been published to the middle of June. I do not know what has happened since then.\*

8756. I would like to put this question both to Mr. Bannerjee and Mr. Chatterjee: You are both Members of the Council. Will you kindly answer a question straight before

---

\*Questions Nos. 8739 to 8755 relate to the proposed polling machinery and are printed under the heading “Polling Machinery”—pp. 221—225.

the Committee: Supposing the White Paper Constitution is accepted and the safeguards are not removed to the extent to which it is desired by some people, and so on—take it substantially that, barring details, the White Paper goes through, will you be prepared to work this Constitution in Bengal?—Yes, certainly the large majority of the people will be quite prepared to work the Constitution.

8757. I believe, Mr. Bannerjee, you are the President of the Congress Committee?—No; at present there is no Congress Committee. I was, in 1927, President of the Bengal Congress Committee.

8758. You were President up to 1930, were you not?—No, I was President in 1929, and in 1930 of a District Congress Committee. In 1927 I was President of the Bengal Congress Committee.

8759. At any rate, you were President of some Congress Committee, up to 1930?—Yes.

8760. You have now severed your connection with the Congress?—Just at present, I do not hold an official position in the Congress, but I am a member of the Congress.

*Mr. M. R. Jayaker.*

8761. Do you pay the yearly subscription of the Congress, as a member?—Yes, I am a 6d. member.

*Sir N. N. Sircar.*

8762. Will Mr. Chatterjee kindly answer this question: Will he be prepared to run this Constitution—I mean, not entering the Legislature for creating breakdowns and deadlocks, and things of that kind, but honestly to run the Constitution, if you get nothing but the White Paper, substantially—there may be slight alterations?—(*Mr. Chatterjee.*) In my humble opinion, if the Constitution which has been sketched in the White Paper goes through, then we shall not get responsible Government in Bengal; and those who have been looking forward, like myself, to the salvation of India through the working of Provincial responsible Governments, will be



too disappointed to take part in such a Constitution; but I think the elections would be contested, as far as the Hindus are concerned, on the one side, by those who want to wreck the Constitution, and, on the other, by those who may be shortly described as job-hunters.

[*Sir N. N. Sircar.*] What is your reason for saying that?

*Sir Austen Chamberlain.*

8763. Would the Witness make clear what part he proposes to take in the contests which he has just described?—I shall not be in it at all, Sir.

*Mr. M. R. Jayaker.*

8764. May I put one question? You do not suggest, that if the Constitution outlined in the White Paper is given to India, it will be received with satisfaction by the important political parties in the country?—May I just understand the question? This question is a bit too general. If I could understand the trend of the question?

8765. I am asking you because you answered the question put by Sir Nripendra Sircar that the Constitution would be wrecked?—Mr. Bannerjee said that.

8766. What is your view—would it be worked with satisfaction?—As I have said, as far as I can see, it denies us responsible Government in Bengal, and that will create very profound dissatisfaction. But, as I say, there are two classes who might be expecting to come and contest an election, those who want to wreck the Constitution and those who want jobs.

*Sir N. N. Sircar.*

8767. May I know why you say it denies responsible Government in Bengal?—Because in Bengal it creates a permanent communal majority which is unalterable by any appeal to the electorate, to use the language of the Simon Commission. If I may add, the Lothian Committee Report pointed out that in order that you may get responsible Government, you must, in the first place, have a party in power, functioning as Execu-

tive Government, and also an Opposition which would be capable not only of criticism, but of taking over the responsibilities of Government, when called upon to do so. In Bengal you have created a permanent communal majority, in the first place, by giving our Muhammadan friends 119 guaranteed seats on the basis of a communal electorate, and of the special seats, if you make a very conservative computation, they would be bound to get at least six ; so that our Muhammadan members of the Council would be in a permanent majority, would have a permanent number of 125, as against the Hindus and the Britishers, Anglo-Indians and Indian Christians, and, necessarily, the leader of this party must be sent for by the Governor to form his Ministry ; and since this would be a Ministry founded upon the basis of a communal electorate, returning a communal party into power, that Ministry, as far as one can see, must be a communal Ministry, and there would be the greatest incentive on the part of our Muhammadan friends to stick together, because, if they did so, they would get all the seven Ministers to themselves, and if they did things which others did not like, they could not replace them.

8768. One last question, Mr. Chatterjee. Do you not think your suggestion would antagonise people, the suggestion which you make at paragraph (k), Document No. 62, the proposal you make of giving the Governor the power to decide whether a particular Member is acting in conformity or not. Do you not think that is impracticable and will antagonise people?—If I may explain myself, as far as I am personally concerned, I am able to say, with a fair amount of confidence, that if Bengal is given responsible Government, either by the alteration of the Communal Award in the shape of the creation of a joint electorate for all, or even by altering it to the extent of giving the Hindus and Muhammadans an equal number of seats on the Council, then the Swarajists, or, in any event, the most influential section of them, will come and work the Constitution. I have no doubt about that. I have been in intimate touch with the Swarajists for the last three years, and I think I can give that assurance to this Committee that in the event of a satisfactory re-adjustment of the seats so as to make

responsible Government real to Bengal, the Swarajists will come and work it, but I make this suggestion that I have made here to meet a certain objection that the Secretary of State appeared to raise in the House of Commons when he introduced his White Paper. He rather felt that if the 'Hindus came in in any large number, the wrecking tactics might be revived. It is merely to allay his fear that I make this suggestion, but if, as Sir Nripendra Sircar has put it to me, the suggestion I have made does not appear to commend itself to men like him and my countrymen generally, then I will not press it, because it is not an essential part of my scheme.

## **POLLING MACHINERY.**



## POLLING MACHINERY.

[Questions were put to Mr. J. L. Bannerjee by Sir N. N. Sircar for eliciting his opinion, as to whether the polling machinery would be able to cope with the very large electorate recommended by the Franchise Committee.]

*Sir N. N. Sircar.*

8739. I have done with the Poona Pact. We had some evidence here about the simplified form of vote with coloured boxes and so on. You recently had experience of that, had you not?—Yes, in November last.

8740. Will you tell the Committee shortly how that system worked and what was the result?—That simplified voting by means of coloured boxes, in my humble opinion, does not help matters at all. People vote not for a particular person; they vote for a particular colour, and I submit that is neither representative government nor democracy.

8741. I want to know how many votes were recorded?—Even with this simplified form of voting, even with the help of the coloured boxes, you cannot poll more than 300 in a working day of, say, six hours.

8742. I do not want general statements. How many could be polled on this occasion?—On this occasion, 2,000 people had arrived for the purpose of recording their votes. The poll continued from 11 a.m. to midnight and during this time only 609 votes were recorded with the help of the simplified form of voting which is supposed to simplify matters.

8743. The others had to be sent away?—Yes, they had to be sent away.

8744. Do you agree with the rather optimistic statement made in the Franchise Committee's Report that a thousand can be polled on a single day?—They could be polled, but it

would not be balloting. In point of fact, they would be asked to vote for such and such a man. That is not preserving the secrecy of the ballot box; but if secrecy were to be preserved, if voting were to proceed on regular lines, it would be absolutely impossible, to poll a thousand votes in a day.

*Mr. Butler.*

8745. May I ask the witness how many polling clerks he is referring to on this occasion?—One polling officer and two assistants.

8746. May I ask him whether, if the number of assistants is increased, it does not make it easier?—That will not help in the least because it is the polling officer only who can go inside the polling booth and ask the illiterate voter whom he is voting for. You cannot entrust that duty to less responsible people.

*Marquess of Reading.*

8747. Did the polling officer in that case ask every voter whom he was voting for?—Except in the case, of the illiterate voters, he did not put that question; but they form 50 per cent. of the voting strength. That is not on the franchise proposed by the White Paper but on a narrower franchise which is reserved for local board elections.

8748. Did I understand you to add in the case of the illiterate voters the polling officer asked every voter whom he was voting for?—Yes, he had to.

8749. That is not the system proposed in the Franchise Committee's Report?—I beg your pardon; in this particular case they had coloured boxes and they forgot which coloured box was for which candidate. Consequently, they asked advice and assistance of the polling officer.

*Nawab Sir Liaquat Hayat-Khan.*

8750. We do not really know what is intended to come out of this examination. Is Mr. Bannerjée's contention this, that this particular method of coloured boxes is objectionable

or does he mean that the electorate should be reduced: that you cannot cope with the large number of voters? I just want to clear that up?—Whether the electorate should be increased or reduced is not the point with which I am immediately concerned. What I am immediately concerned with is that in the first place with the coloured boxes you do not get proper voting at all. In the second place, even with the coloured boxes you cannot possibly poll a sufficiently large number of people on one day, so that with the huge electorates proposed in the White Paper there is just a possibility of an administrative breakdown so far as recording of votes is concerned.

8751. Your objection, therefore, is confined to this particular method of voting?—No; I have made it perfectly clear that it is not simply a question of coloured boxes; that also is objectionable.

*Mr. M. R. Jayaker.*

8752. Are you against the large electorates proposed in the White Paper?—Yes. That is a different question.

8753. On the merits, are you against the larger electorates proposed in the White Paper?—On the merits, I am. That is my individual opinion.

8754. Are there many people in Bengal who share your view?—A large section of people.

8755. Do they form the majority or the minority?—I could not say; I have not taken a census of that. I have ascertained the views of many of my colleagues on the Legislative Council, and the majority of them would be against it. All the Members of the Bengal Provincial Committee were against it.





**QUESTIONS RELATING TO THE  
HIGH COURTS.**



## QUESTIONS RELATING TO THE HIGH COURTS.\*

• [In his letter dated 22nd August, 1933, addressed to me, his Lordship the Chairman of the Joint Committee was pleased to state :—

“I have consulted the Secretary of State and am able to inform you, that if you will be good enough to submit to me in writing the questions upon the matter of the High Courts and Supreme Courts, which you have in mind, he will give written replies. These will appear in the published Proceedings at the first available opportunity.”

Taking advantage of this kind permission, I am submitting the following questions. The delay is solely due to my unfortunate illness.

•  
DARJEELING,

15th October, 1933.

N. N. SIRCAR]

1. In answer to a question put by me, namely, question 6581 (page 743 of the Minutes of Evidence before the Joint Committee) the Secretary of State stated that “Broadly speaking it is the case, that so far as the superior officers are concerned, their pay, pension, promotion, posting and even a vote of censure on their conduct, are beyond the competence of the Ministers”. As in the opinion of the framers of the White Paper it is necessary to keep the superior services free from local politics and communal influences which view has led them to encroach so severely on full provincial autonomy, will the Secretary of State state why the provincial High Courts, their judges and officers and the subordinate judiciary do not require

\*A few weeks after his return to India, Sir N. N. Sircar sent these questions by post to the Chairman of the Joint Committee. Up to the time of going to the Press no replies from the Secretary of State have been received.

the same protection which has been considered essential for the superior services generally ?

2. Is it not a fact that under the White Paper proposals financial control of the High Courts has been left with the Provinces, and, if a High Court requires an extra Deputy Registrar, or more ministerial officers or an increase of staff or provisions for accommodation for trials of cases or for juries or witnesses, etc., the money required for the purpose will be subject to vote of the Provincial Councils for supplies for the High Court ?

3. If the relations at the present moment between the High Court and the Executive are fairly harmonious, although financial control is in the provinces, is it not a fact that the administration is now a reserved subject, and neither the Governor nor the Member-in-charge of this reserved department belongs to any political party ?

4. If under the new constitution, the Governor of the old regime is replaced by a ministry likely to be dominated, at least in the first few years, by communal feelings, will not the situation be completely changed ?

5. Does not the Secretary of State think that a Provincial Government, dependent on the votes of one community or another, will have the incentive as also the means of directly or indirectly putting pressure on the judges ?

6. Is the Secretary of State aware that in March, 1922, because the Patna High Court had appointed a Deputy Registrar who was not a Beharee, the High Court Judges were subjected to extremely virulent attacks led by Babu Nirsu Narayan Singh, who was helped by the Hon. Mr. Ganesh Dutt Singh, (now a Minister of Bihar) ?

Is the Secretary of State prepared to circulate the proceedings of the Bihar Legislative Council for the year 1922, Vol. IV, pages 1086 to 1113 and 1857 to 2027 to the members of the Select Committee so that they can have an idea of the realities of the situation in India ?

7. Is it a fact that the Hon. Mr. Hammond on this occasion pointed out to the Council that the High Court had been dragged into the mire, and is it also a fact that in spite of all endeavours of Messrs. Hammond and Allanson on behalf of Government, Babu Nirsu Narayan's motion was carried and the High Court grant reduced?

8. White Paper proposals provide for certification by the Governor of High Court expenses after consultation with his Ministers. Is the Secretary of State aware that in 1922, in connection with the incident referred to, when the Governor had even larger powers, he did not use his powers of certification?

9. Is the Secretary of State aware that the High Court grant having been reduced as stated above on the 3rd April, 1922, the Hon. Mr. McPherson moved that the Behar Council do assent to a supplementary demand? Is it a fact that he regretted the virulent personal attacks made on High Court Judges? Did he say that the position of the High Court had been dragged into the mire?

10. Does the Secretary of State think that the Hon. Mr. McPherson correctly summarised the situation when he stated that "the Council had dragged into the debate a discussion of the personnel of the High Court Judges themselves, that the Council were making it clear that this time the High Court would be let off with a reduction of Rs. 1,000/- only, but that if their wishes were not gratified they would take a bolder and more serious step, and they would bring forward a motion that the whole of the votable grant of the High Court should be reduced?"

11. Is it not a fact that the Hon. Mr. McPherson gave an assurance that if the motion were withdrawn Government would represent to the High Court the strength of the feelings of the Council and would ask them to re-consider the question, viz., of appointing a Beharee as Deputy Registrar, but Babu Nirsu Narayan Singh refused to withdraw the motion, and, on a division, it was carried by a majority?

12. It is not possible to condense in a few questions, proceedings on the two occasions referred to, which cover about

100 pages in print, but will the Secretary of State agree with the view that the state of affairs disclosed by the debate would be simply impossible in his own country?

13. Is it not a fact that during the speeches the Hon. Mr. Justice Coutts was accused of telling an untruth as to why a particular Beharee was not appointed Munsiff, and is it also not a fact that the Chief Justice was attacked in various ways?

14. If the Secretary of State thinks that this is an isolated instance of pressure being put on the Judges, because one community insisted on appointments being made from their members, is he prepared to get a statement of the Chief Justice of the Patna High Court on the question whether it is not a fact that up to the present moment on every possible occasion pressure has been attempted to be put on the High Court?

[NOTE.—The interrogator is not suggesting that this communal rancour over appointments is confined to Behar.]

15. Is it a fact that very recently a non-Bharee Judge was appointed for the Patna High Court, *viz.*, Mr. Justice Agarwalla, in spite of great pressure being put on the Chief Justice for recommending some member of a particular community?

16. Is it a fact that this was immediately followed by a notice of motion being given in the Behar Legislative Council for discussion of the administration of the High Court?

17. Under White Paper proposals—"The Judges of the High Court will continue to be appointed by His Majesty." Is it a fact that in actual practice recommendations are made by the Local Government and the respective High Courts? If the High Court will refuse to comply with the demand of the Provincial Ministers, is there not the probability of history repeating itself, and of the High Court grant being rejected or reduced?

18. Has the notice of the Secretary of State been drawn to the incident relating to the house of the then Chief Justice of Bengal, Sir Lancelot Sanderson, now the Right Hon. Sir Lancelot Sanderson, a Member of the Judicial Committee—an incident which took place during the Governorship of Lord Ronaldshay as he then was?

19. Is it not a fact that although the house meant for the Chief Justice had been partly constructed and its abandonment meant loss to Government, yet money was refused for its completion, because the Calcutta High Court had some time previously altered the rules about the preparation of records of appeals, which involved loss of money to vakils practising in the High Court?

20. Does the Secretary of State agree with the statement that the Chief Justice of Bengal was punished and deprived of his house by a Council having in it many lawyers—simply because the new rules provided that records should be departmentally prepared instead of being prepared by lawyers?

21. Is the Secretary of state prepared to recommend that the Joint Select Committee should examine the Right Hon. Sir Lancelot Sanderson, who is now in England?

22. Is it not a fact that in this case also Lord Ronaldsday did not exercise his powers of certification, and does not the Secretary of State think that the provision in the White Paper about certification of High Court expenditure by the Governor after consultation with his Ministers is a paper safeguard, which will be wholly ineffective in actual practice?

23. If the scheme of the unanimous report of the Statutory Commission is accepted with the result that matters like those indicated in previous questions will be discussed in the more remote and detached atmosphere in the Centre, will not that be more conducive to the maintenance of the complete independence of the High Courts than the scheme under the White Paper which places financial control in the provinces?

24. Does not the Secretary of State think that it will make all the difference whether such matters are discussed

(1) In the Provincial Council as provided under the White Paper scheme?

(2) In the Federal Assembly in the presence of representatives of other Provinces—as under the scheme unanimously reported by the Statutory Commission?

25. Taking a hypothetical case, supposing the Council of a Province dominated by Hindus reduces the grant for the High



Court because some Muslims have been given appointments, and the Ministers are of opinion that the Governor should not exercise his power of certification—does the Secretary of State think that the Governor will actually repeatedly exercise his powers of certification in opposition to the Ministers?

26. If the Secretary of State thinks that the situation assumed in the preceding question is not likely to arise will he kindly state whether it is not true that the disgraceful attack on the judges of the Patna High Court was based on—

(1) The fact that the newly appointed Deputy Registrar was not a Beharee,

(2) The fact that there were too many non-Beharees in the Accounts Department in the High Court, and

(3) The fact that some of the newly appointed Munsiffs were not Beharees?

27. Is the Secretary of State aware that the High Court Judges and their administration have often been attacked in Provincial Councils on various ostensible grounds, where the real reason has been the appointing of officers from a particular community?

28. The Secretary of State has been informed by the Moslem delegation that they favour the White Paper scheme as regards financial control of the High Courts being left in the Provinces. Is it not a fact that the only Moslem Chief Justice in India, namely, the Chief Justice of the Allahabad High Court is very strongly opposed to the White Paper scheme in this respect?

29. The Report of the Statutory Commission points out that "If the re-adjustment of provincial boundaries results in the carving out of additional provinces, other cases may arise in which one High Court ought to serve more than one provincial area and our solution prevents fresh difficulty arising from this cause." (Paragraph 347). Is it not a fact that at the present moment the Calcutta High Court is the only High Court concerned with two provinces, namely, Bengal and Assam, whereas in the immediate future we are likely to have two more instances, viz., in connection with Sind and Orissa?

30. Is it not a fact that at present the Calcutta High Court is under the administrative control of the Government of India, but under the financial control of the Government of Bengal, and is it also not a fact that the scheme of the Statutory Commissioners removes this anomaly?

31. Has the Report of the Statutory Commission failed to consider arguments which have induced the framers of the White Paper to favour financial control in the provinces? If so, will the Secretary of State kindly state them?

32. Does the Secretary of State consider, that the scheme of placing provincial High Courts under the control of the Central Government is unprecedented? If so, will he kindly refer to the Canadian constitution?

33. Is it not a fact that the Statutory Commissioners carefully considered all arguments which could be advanced against their conclusion but arrived at the definite conclusion that consideration for central control far out-weighed the difficulties urged against it?

34. Is it not a fact that the Chief Justices of the Punjab High Court, the Allahabad High Court, the Patna High Court, the Bombay High Court, (and the Chief Justice of the Bengal High Court as appears from his deposition before the Statutory Commissioners) are all in support of the above-mentioned conclusion of the Statutory Commissioners?

(The interrogator is not aware of the views of the Madras High Court.)

35. Are there any insurmountable difficulties in making the High Courts responsible for appointments, or for recommending for appointments, to subordinate judicial posts?

In any case, is it not a fact that there are no serious difficulties so far as purely judicial officers are concerned?

36. Will the Secretary of State kindly state what the difficulties are and how they can be removed?

37. Is it not a fact that subordinate Judges have jurisdiction to try suits of any value, however large? Is it not a fact that more than 90 per cent. of title suits and suits relating to

money, etc., are tried by subordinate Judges and not by District Judges?

Is it not a fact that the Subordinate Judges are recruited by promotion from among Munsiffs, who are Civil Judges with limited pecuniary jurisdiction?

38. Is it not a fact that the Munsiffs have no criminal jurisdiction whatsoever, and that from among the Subordinate Judges a very limited number are vested with authority to try serious cases?

39. Does not the Secretary of State think that the High Court which has to deal with the work and to consider the judgments of these subordinate judicial officers is far more competent to judge of their merits and competence than the Executive Government?

40. Do not the considerations which apply in the cases of members of the Indian Civil Service and superior services being kept free from political influences equally apply to the subordinate judiciary?

41. Does not the Secretary of State think that the impartiality of the High Court in giving advice would provide a valuable check on transfers, appointments, etc., being influenced by communal or political considerations?

42. Does the Secretary of State find it difficult to realize that a situation may arise where all or most of these subordinate officers may be appointed from one political camp, be it Hindu or Muhammadan, and Congress or non-Congress?

43. Does the Secretary of State think that such an undesirable contingency has been amply provided for by the Public Service Commission? If so, will he kindly state what control can the Commission exercise, for instance if they are required to select ten suitable officers from Hindus only?

Will they have power to tell the Government that they will refuse to select from Hindu candidates only—and some Muslims ought to be appointed?

44. Is the Secretary of State aware that in the subordinate services, including the Judiciary, there is wide-spread apprehension, that the officers are being thrown over to politicians?

[Note.—If the Joint Select Committee think that in framing some of the preceding questions the interrogator is labouring under an exaggerated notion of the danger of communalism and of the danger of the services coming under the undesirable influence of politicians and that he is showing but little faith in the Ministers who will be his countrymen, he begs to point out that such basic assumption is not his but of the framers of the White Paper, who, have protected the members of the services recruited by the Secretary of State from being unduly interfered with by politicians. The interrogator respectfully submits that if the officers recruited by the Secretary of State require safeguarding to an extent which is hardly consistent with real provincial autonomy—similar considerations, to be consistent, should apply to the High Court and its officers and to the subordinate Judiciary as well. The purity and impartiality of British justice have so far been the moral foundation of British rule. It seems to the interrogator that while the framers of the White Paper are only too anxious to protect the Indian Civil Service and the Police, they seem to be under the impression that there is no danger in allowing judicial officers and administration of justice being left to the mercy of politicians.]



PART III  

---

THE SPEECHES



**NO FEAR OF ABDICATION BY THE  
BRITISH.**





## **NO FEAR OF ABDICATION BY THE BRITISH**

[The following is the full text of the address delivered on May 8, 1933, by Sir N. N. Sircar at a meeting attended by about 400 Conservatives in London.] . .

Within the time-limit of ten minutes it is impossible to discuss the White Paper. In my opinion—though that opinion is not shared by many of my friends—postulating commonsense in the Governors and the Indian Legislatures and Ministers, there is great scope for real advance in the proposals of the White Paper.

### **ABDICATION CRY.**

It is, however, insulting to the meanest intelligence to be told that the proposals amount to “abdication of India by the British.”

I have been in this country for a few days only, and I have noticed the tearing and raging campaign, which is being conducted all over the country with the cry of abdication.

What is abdication? What does it mean? After all English is your language and not mine, but before you become victims of these catch-words, you who claim practical commonsense as a peculiarly British characteristic should judge for yourselves the effect of the White Paper.

The suggestion of proposed changes in the Centre fills these campaigners with alarm, and increases ten-fold their solicitude for the teeming millions of India.

If, however, the White Paper goes through, Army and External affairs remain Reserved Subjects untouchable by Indian hands. The Indians have no voice in the progress of Indianisation of the Army. As regards Finances, as eighty per cent. of the Central Revenue is eaten up by Army expenditure, Debt Service, guaranteed pays, pensions and allowances, the Finance Minister can play with only the balance, *i.e.*, twenty per cent.

A voice: Is that so? I don't find that in the White Paper.

Chairman: That is quite accurate.

As regards the Services, not only recruitment, but even transfer of members of the Superior Services will be beyond the power of the Ministers. The Ministers cannot censure persons who on paper and in theory are their servants.

Is this abdication?

### BARGAINING ORIENTAL.

I find it stated in the House of Commons that the excessive condemnation of the White Paper is explained by the fact that the Oriental is a great bargainer, and that he asks for ten when he will be satisfied with two.

If Oriental exaggeration is to be explained by this act, may I point out that this so-called exaggeration is but a small fraction of what you are committing by this campaign against "abdication," based on misrepresentation of facts.

As regards the main topic discussed by so many speakers this evening, *viz.*, change in the Centre, I can understand those who, starting with the major premise that the East affords unsuitable soil for the democratic plant, have come to the conclusion that the policy of democratisation is wholly wrong. If that is your considered opinion, by all means scrap the Reforms, say that you made a mistake in bringing up generations of Indians, who from their school days have been taught to look upon Parliamentary form of Government as the highest ideal. Say that you made a mistake in 1917, your Parliament repeated the mistake in 1919, and Lord Irwin and your Prime Minister made greater mistakes in making the statements they did with the authority of His Majesty's Government.

You can console yourselves with the idea that the continued and consistent mistakes of years are now going to be corrected by you, you who have regained your senses and discovered that the Oriental thrives only under despotic rule. Stick to your Kipling, and continue to think that the East is unchanging. I have no doubt that you will find at no distant time that if you have made mistakes already, you will be committing a greater

mistake by trying to change horses mid-stream. You have deliberately cut the dam, and you cannot stop the torrent now.

I am afraid my time is up.

(Voices: Go on).

I cannot appreciate at all the argument of those who, while professing to remain unconcerned with the grant of Provincial Autonomy, are filled with horror at the idea of a changed Centre.

The day-to-day administration, the main activities of the Government, sanitation, education, irrigation, law and order, land tenure and condition of tenants, etc., are all Provincial matters.

The Provincial Governments make or mar the happiness of the people, and if Provincial Autonomy is almost incompatible with an autocratic Centre, I fail to see how you can stop with Provincial Autonomy. I am afraid that I have no time this evening to develop this point.

I have to thank you for the way in which you have received my speech, and before resuming my seat, I would beg of you that whatever you do, for Heaven's sake don't misrepresent the White Paper proposals as "abdication," and when next time you think of the bargaining Oriental do not forget that if there is any bargaining, it is not between two persons at arm's length, but that the situation is comparable to arguments between one armed to the teeth and the other a cripple on crutches, who, at the present moment cannot even run away if the terms do not suit him.

I thank you again. (Applause).



**LAW & ORDER : MINISTER WILL BE  
A GLORIFIED SECRETARY.**



## **LAW & ORDER: MINISTER WILL BE A GLORIFIED SECRETARY.**

[The following address was delivered by Sir Nripendra Nath Sircar at a meeting of some conservatives and their friends in London on May 12, 1933.]

It is difficult for an Indian to follow the political cross-currents of thought in this country. While it is being conceded that the grant of Provincial Autonomy without the transfer of law and order will be a contradiction in terms, yet, at the same time, many of the recent speeches indicate the growing fear that if law and order are transferred in Bengal, the consequences will be disastrous.

I want to point out to the audience that it is wholly wrong to assert that the White Paper contemplates a complete transfer of law and order in the provinces. It is proposed to include in the instructions to the Governor a direction that "he should bear in mind the close connection between his special responsibility for peace and tranquillity and the internal administration and discipline of the police."

If "the administration and discipline of the police" is to be the special responsibility of the Governor, it is idle to suggest that the Minister will be responsible for the police. He will be a glorified secretary in the Department of law and order. You will notice that the special responsibility is couched in very general language, viz., "the prevention of a grave menace to peace and tranquillity."

Supposing a liberal-minded Hindu were to introduce a bill for raising the marriageable age of Hindu girls, and thereupon the extreme orthodox section organised demonstrations and activities which might lead to rioting in some parts of the country, is it intended that the safeguard would authorise the Governor to forbid the introduction of the bill or to take upon himself the Police Department for the prevention of disturbances?



This hypothetical case brings out the very wide scope of the safeguard which strangles the responsibility of the Minister.

If the special responsibility had been confined to the prevention of crimes of violence on a large and organised scale, one could have understood it was a safeguard, whether one agreed with it or not, but the White Paper proposals, let me repeat, while expressing the idea of the transfer of law and order, have not translated the idea into action.

If Parliament in its wisdom is opposed to the transfer of law and order, to be logical, it should not talk of the grant of Provincial Autonomy. It may no doubt refuse to make any advance and go back to the days of Lieutenant-Governors. Let it establish the reign of "benevolent" despots governing India on autocratic lines, and it will not be long before it will discover that the resulting bitterness and strife will be ten times more mischievous than any possible consequences of the transfer of greater risk.

Mr. Baldwin recently in his speech stated that while the White Paper proposals constituted a risky experiment, lack of courage for taking this risk involved certain disaster and greater risk.

I venture to paraphrase the idea and to state that, while the transfer of law and order may involve some risk, the grant of Provincial Autonomy with law and order untransferred will mean certain disaster.

**CASE FOR TRANSFER OF LAW AND  
ORDER.**



## CASE FOR TRANSFER OF LAW AND ORDER.

[The following is the full text of the address delivered by Sir N. N. Sircar at a meeting attended by some Conservative M. P.'s, and their friends in London on Saturday, May 29, 1933.]

The matter discussed this evening, namely, whether Law and Order can be transferred to popular control in the Provinces, has assumed first grade importance, by reason of the campaign of misrepresentation, which is now furiously raging in this country.

During the debate in the House of Commons, Sir Samuel Hoare very correctly stated that if Law and Order were not transferred, it would be impossible to make Provincial Autonomy real self-government.

Sir John Simon said that there was no way other than making the Minister responsible for the Police. The main argument which has been advanced to-day is not new.' It was indicated by Sir Robert Horne, *viz.*, "Whatever instructions may be given about Police reports going to the Governor, the Minister, in the ordinary discharge of his duties, is in a position to say about what class of offences reports are to be made, and if the Minister is disaffected—and that after all is the hypothesis upon which we are arguing—it seems to me perfectly simple for the Minister to make it impossible for the Governor to discover what is going on in the Province, or at any rate to see that information gets to him only when matters have gone too far."

This argument completely ignores the "safeguards".

The Governor has cast upon him the special responsibility in connection with "grave menace to peace and tranquillity." When actually discharging this responsibility, he can override the Minister. If the situation arises of the Minister being considered unreliable, what is there to prevent the Governor from

issuing orders that information about certain classes of offences should be given to him by the Police? What difficulty can there be when the higher officials will continue to be recruited by the Secretary of State?

Talking of "safeguards," the White Paper proposes that in addition to the special responsibility created by the statute, the Governor will be directed in the instrument of instructions that "he should bear in mind the close connection between his special responsibility for peace and tranquillity and the internal administration and discipline of the Police." Does not this amount to the Governor being virtually made responsible for administration and discipline of the Police?

If so, is it right to say that the Police is being really transferred? The Police will be justified in feeling that the Governor is the real master, and the Minister a glorified Secretary. The Minister will be justified in feeling that the whole responsibility is not his.

Having regard to the proposed safeguard and the proposed direction, if the Governor gets a Counsellor to advise him in Police matters, what is the substantial difference between the present position where the person responsible is the Member of the Governor's Executive Council, and the one which is proposed to be created?

If it is said that I am relying too much on the actual words used and ignoring the spirit which is supposed to underlie them, I retort by urging that the spirit should be maintained.

If "grave menace to peace and tranquillity" is aimed at crimes like those of Bengal Terrorists, if that is really meant, though not expressed, surely the first thing necessary is to take out altogether from the sphere of the Governor every activity of the Police except those relating to such special crimes.

As I say, if that is what is intended then the first thing necessary to state clearly is that in respect of crimes, other than organised crimes of violence for destroying the established Government, the Governor should not interfere at all, that the discipline and administration of Police should be the affair and the responsibility of the Minister and of the Minister alone.

If it is made clear that the Governor should interfere only if there is grave menace by reason of organised crimes of violence for destroying established Government, the language of the "safeguard" as well as of the direction must be very materially altered. As they now stand, the Minister cannot be made responsible for the Police Department at all.

If the possible scope of interference by the Governor in Police matters is thus narrowed down, and if he has nothing whatsoever to do with any other crimes, be it forgery or theft, or rioting or smuggling, or uttering counterfeit coins, etc., the question arises, does he even then want a Counsellor? Obviously he will not require a Counsellor at all if:—

(1) There is no such organisation of sufficient dimensions in his Province, or

(2) If the Minister is neither weak nor unreliable.

The assumption made, to quote the language of Sir Robert Horne, is: "The Minister may be disaffected." A violent assumption like this is not a reasonable one to make. I appreciate the spirit which makes it necessary to use this kind of covered language instead of stating bluntly what is in the mind of the speaker, viz., "If the Minister happens to be a Bengal Hindu in sympathy with Terrorism."

Has any scope been left for any such assumption?

With 119 Moslems, 31 Europeans, 30 men from depressed classes, a total of 180 out of 250, what is the difficulty of finding a Moslem or a European, or a Chamar (depressed class) Minister for taking charge of the Police? What voice has the Bengal Hindu in the proposed constitution?

(A Voice: Can your Governor of Bengal do without a Counsellor?)

It is a question for him to answer, but a Governor of capacity and judgment, I believe, can rely on himself and do without a Counsellor.

(A Voice: I would hesitate in the present condition of Bengal.)

I am sure that if our present Governor is replaced by the gentleman interrupting the latter will not be able to manage

Bengal, if he gets a dozen Counsellors to help him in the department of Police (Laughter).

In summing up I should say:—

(1) There can be no real self-government in the Provinces if Law and Order are not transferred.

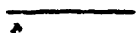
(2) If Law and Order are not going to be really transferred, it will be more straightforward to say that there is no intention of granting Provincial Autonomy.

(3) Any differential treatment of Bengal will lead to disastrous consequences.

(4) The proposals in the White Paper do not amount to real transfer of the Police, and the language of the "safeguards," and more particularly of the proposed "direction," in effect destroys the reality of the transfer.

(5) The idea of a Counsellor will not be accepted with favour by any section of the people.

## PART IV



## THE FINAL REPRESENTATIONS.





**A “TEMPORARY” PERMANENT  
ARRANGEMENT.**



## A "TEMPORARY" PERMANENT ARRANGEMENT.

### AN OXYMORON.

When parties were failing to settle their communal dispute, the Prime Minister in concluding the Second R. T. C. gave the following warning :—

"If you cannot present us with a settlement acceptable to all parties, His Majesty's Government would be *compelled to apply a provisional scheme.*"

"If the Government have to supply even *temporarily* this part of your constitution it will not be a satisfactory way of dealing with this problem."

• The warning referred to a *provisional temporary arrangement*. When one turns to the decision, if he is unwary, he will believe that nothing more has been done—because the decision purports to be for ten years only. •

The decision, however, provided (now reproduced in para. 49 of the introduction of the White Paper) that "modification might be made after ten years with the assent of the communities affected."

I put a question to the Secretary of State (Q. 7,223, p. 818 of the Reports of the Proceedings of the Committee) :—

Q. "I was going to ask the Secretary of State, if he will permit me : As the communal decision stands it means this : Assuming for the sake of argument one party has got more than it ought to have it must assent to that being given away *before there can be any change at any time.* You have got to get the assent of somebody who has got *more than he ought to have?*

---

\* Sir N. N. Sircār returned to India after his work as delegate to the Joint Committee on August 19, 1933. He sent this leaflet to the members of the Committee by post on 27th October, 1933.

*Ans.* If Sir N. Sircar makes that hypothesis, it is so.

Purporting to make a decision, which holds good for ten years only, the authors have shown remarkable ingenuity in making it in effect, and in fact, good for all times.

In Bengal, the Muslims will have an irremovable majority—a majority sent in by votes of a particular community. They have got more than what can be justified on any logic,—and unless they are guilty of unexpected generosity in giving up their undeserved advantage, “there cannot be any change at any time”.

Each party is contending that it has not got what it ought to—but the unfortunate Bengal Hindu is in this position, that when he complains of 31 seats out of 250 being allotted to Europeans and Anglo-Indians, who form a fraction of one per cent. of the population—he is told it is not a question of quantity but of quality. The interest of Europeans in trade, commerce, mining, etc., and their general importance justify their getting 31 seats.

Quality and interest count. Be it so.

Let the special interests be represented, according to the quantum of interest—and not on quantitative basis of population.

On this argument, in dividing the 51 seats for special interests the population ratio does not come in at all: Again be it so.

If the 51 seats are separated, 199 seats only are left for division—and Muslims can get only 109 as representing their percentage of 55 in the population.

Why do they get 119—an excess of ten? The only possible answer is—Quality for Europeans, Quantity for Muslims (not only in ordinary seats but in seats for special interest as well)—but in case of Bengal Hindus, neither quantity nor quality matters.

When reports were required from Bengal and India Governments, they reported that the fair way was to divide the ordinary seats according to population. Even the separate

note of the Muslim members of the Government of Bengal did not ask for division of special seats on population basis. They limited the claim to the ordinary seats.

The communal decision, after giving Bengal Muslims ten seats more than what they had even claimed, provides, that this cannot be changed without the assent of the Muslims.

Is any comment necessary?

If His Majesty's Government will frankly tell the Bengal Hindus, that it is dangerous to allow Bengal Hindus their legitimate share—because Terrorists come from their community, and further that it may enable them to create deadlocks—(which however will be impossible with 31 Europeans, with members of depressed classes, and with even only 109 ordinary Muslim seats)—the sole and possible argument for justifying the communal decision may be understood.

They can legitimately say that a section of Bengali Hindu community has behaved in a way, which has antagonised everybody.

The Bengal Hindus will then be told, what they now only suspect—millions are being punished for the crime and defection of hundreds. Otherwise no amount of arithmetical puzzles, or specious reasonings can justify the communal decision, which is so often called the "Communal Award"—though the Muslim members of the Delhi Consultative Committee expressly stated that they did not want any 'award' and they reserved the right to challenge the decision if they considered it unsatisfactory from their point of view, and Sikhs and Hindus agreed that there was not going to be any 'award'.

If I were told that I was giving a temporary lease I would object to the expression, if it was a condition that the lease could not be terminated at any time unless the tenant agreed.

But then I am merely a lawyer and not a statesman having the destiny of a community of 22 millions in my hands.

Some British statesmen have succeeded in drafting a lease of Bengal for ten years to a community insisting on special

electorates—and after ten years the lease cannot be terminated without magnanimous renunciation on their part.

Who can say that this is not a remarkable achievement?

N. N. SIRCAR,  
*Advocate-General of Bengal, and*  
*Delegate to Joint Parliamentary*  
*Committee on India.*

36/1, ELGIN ROAD,  
CALCUTTA,  
27th October, 1933.

**CAN HIS MAJESTY'S GOVERNMENT  
BE COERCED?**





## CAN HIS MAJESTY'S GOVERNMENT BE COERCED?\*

### THE POONA PACT.

Whether an agreement obtained by coercion becomes all the more inviolable, by reason of its having been procured by "coercion"—is a matter which no doubt the members of the Joint Select Committee can decide for themselves.

Whether coercion has been exercised or not is, however, a question of fact, and I crave leave to draw their attention to the following extract from an article from the pen of Mahatma Gandhi, published in his paper *Harijan*, in September, 1933:—

"I do admit that the fast of September last (1932) did unfortunately coerce some people into an action which they would not have endorsed without my fast.

I do admit also that *my last fast coerced the Government* into releasing me.

I admit too that such coercion can and does sometimes lead to insincere conduct."

When I put to the Secretary of State that the action of Mahatma Gandhi was an offence under the Indian Penal Code but His Majesty's Government came down on its knees, released him, and hastened to accept the Poona Pact in 24 hours' time, I was told that such a thought never passed his mind.

That must be so, but, at any rate Mahatma Gandhi thinks that he successfully coerced the Government, and there is no one in India who thinks otherwise. Government has recently repeated this performance—and indeed the occasions on which the Government has been coerced are but too many.

---

\* Sir N. N. Sircar returned to India after his work as delegate to the Joint Committee on August 19, 1933. He sent this leaflet to the members of the Committee by post on 28th October, 1933.

If His Majesty's Government cannot resist this coercion, —and His Majesty's Government, unlike the Hindu, labours under no fear of eternal damnation if Mahatma is allowed to die—what point is made of the fact that a section of Bengal Hindus temporarily acquiesced in the Poona Pact under the coercion of Mahatma's fast?

I have deliberately used the word "acquiesced" because the Bengal Hindus never agreed and none of them signed the Poona Pact.

To the suggested query of the Secretary of State—"Why did not Bengal Hindus protest then and there, why did they wait?"—I may be permitted to give the answer that some of them protested at once in the public Press—and I venture to suggest a counter query—Why did the Government allow itself to be repeatedly coerced? Why did it not protest then and there and say that the settlement of constitutional problems could not depend on anybody's fast?

N. N. SIRCAR,  
*Advocate-General of Bengal, and*  
*Delegate to Joint Parliamentary*  
*Committee on India.*

36/1. ELGIN ROAD,  
 CALCUTTA,  
 28th October, 1933.

# THE LAST REPRESENTATION.



## THE LAST REPRESENTATION.

Members of the Joint Parliamentary Committee on Indian Constitutional Reform may have seen in the daily papers the announcement that His Majesty the King-Emperor has been pleased to appoint me as Law Member of His Excellency the Governor-General's Executive Council. I have while in England and after my return to India sent many printed notes and pamphlets to the Joint Parliamentary Committee, but after I take charge of office in April next I do not propose to take any part in discussions relating to the "White Paper". In this last representation I have summarised some of the matters which I have placed from time to time before the Committee for their consideration. It will be my endeavour to make it concise as I have some idea of the enormous volume of representations submitted to the Committee from innumerable conflicting interests in India.

### THE HIGH COURTS.

1. In the written questions I have submitted for favour of answer by the Secretary of State, I have given instances of the length to which Indian Councils have been prepared to go under the influence of Ministers, who unfortunately in this country have been found but too frequently to try to interfere with details of actual administration of the High Courts. Members of the Select Committee familiar with conditions in England can have no idea of the situation in India. With Ministers acquiring under the White Paper larger powers and influence than what they now possess, this mischief is likely to be very much and the increase.

I referred to the instance when the Bihar Council reduced the High Court grant and abused the High Court Judges and dragged them by name into acrimonious discussions because a non-Behari was appointed Deputy Registrar. I have also referred to the instance of the Bengal Council punishing the Calcutta High Court, and actually taking away a house which had been partly constructed for the Chief

Justice, because for administrative purposes the Judges introduced a rule which took away money from pockets of lawyers by providing for departmental preparation of records in appellate cases. I suggested in my questions that the Right Hon. Sir Lancelot Sanderson, who was then Chief Justice of Bengal and is now in England, might be examined to enable the Select Committee to judge whether the fears expressed here are exaggerated or unfounded, or whether they are not a certainty, having regard to the conditions prevailing here.

2. Under the present Constitution an Executive Councillor is in charge of this department and the mischief actually done is not extensive, but under the White Paper Scheme there will be no longer any Executive Councillor, and the Ministers will be far more powerful than they are now. Either the High Courts must yield to interference, kow-tow to Ministers—themselves slaves of communal majority—and lose their independence, or run the risk of having grants for the High Courts rejected or reduced.

3. The carefully considered and unanimous recommendations of the Simon Commission prevent this mischief, as under its scheme discussions relating to the High Courts will take place at the Centre, in the presence of representatives of other Provinces and the States, and in a more detached atmosphere. Local politics, Communal or otherwise, will be impotent for effective mischief under the Scheme recommended by the Simon Commission.

4. The White Paper Scheme will drag the High Courts into the whirlpool of local and Communal politics and the suggested "safeguard", viz., restoration of High Court grant by the Governor after consultation with his Ministers, is a paper safeguard which will be wholly ineffectual. With Ministers putting pressure on the High Courts and the Judges it is wholly improbable that they will advise the Governor to restore grants which have been rejected at their instance.

5. The unanimous recommendation of the Simon Commission is being objected to by the Muslim delegation, but the only Muslim Chief Justice, viz., of Allahabad, is in favour of the re-

commendations of the Commission, and the Chief Justices of Bengal, the Punjab, and Bombay also agree with his views.

6. While the title of British rule is conquest by the sword, its moral foundation is the administration of justice it has introduced in this country—and in my humble opinion, it will be disastrous to destroy this foundation by departing from the recommendations of the Simon Commission.

7. It is submitted that the High Courts and the Judiciary should be saved from that part of the White Paper Scheme, which, differing from the recommendations of the Simon Commission, places High Courts under the financial and administrative control of the Provinces. All that is necessary is to follow the recommendations of the Simon Commission which has not failed to consider, as its report will show, the contentions which have induced the framers of the White Paper Scheme to give the go-by to their recommendations.

8. The Scheme of the report of the Simon Commission which does not place administrative and financial control of the High Courts in the Provinces, is not unprecedented, as reference to the Canadian Constitution will show.

9. The plea that inasmuch as it is intended to make the Provinces autonomous and therefore they should have financial and administrative control of the Provincial High Courts, is hardly open to the framers of the White Paper Scheme, under whose proposals—

(i) The ultimate authority in respect of the Superior Services is the Governor relating to such matters as pay, pensions, prospects and even postings and promotions. No Minister can even pass a censure on them.

(ii) Although Law and Order will be transferred, the Governor can take over the control of the whole Police Force.

(iii) The Governor has overriding powers in connection with questions relating to minorities and other matters.

### THE FRANCHISE.

1. With reference to Bengal, the proposal to have 9 Millions of voters to start with, most of whom are illiterate, will lead to



a breakdown of the electoral machinery and what will be more disastrous, this will be just the kind of electorate which will fall an easy victim to the doctrines of Communism and Civil Disobedience which are still being preached in this country by influential leaders.

2. The evidence recorded (e.g.—the evidence of Mr. Villiers, Sir Edward Benthall and Mr. Bannerjee) shows that Europeans, Hindus and even Congressmen are really extremely nervous over the proposed unwieldy and mainly illiterate electorate—though Congress offers lip service to adult franchise.

As regards Muslim view, Sir Muhammad Yakub has recently (see *Asiatic Review* Vol. XXIX, No. 100 at pages 639-40) very strongly protested against this unwieldy and illiterate electorate.

3. The Bengal Government was prepared to go up to 7½% of the adult population being enfranchised. The Indian Members co-opted with Franchise Committee would not go beyond 10% but the Franchise Committee has recommended a percentage of 16. The present electorate of just over one million is proposed to be enlarged to nine millions.

4. In theory democracy should be broad-based on very extended franchise. The application of this principle is favoured by political theorists. Those who have any idea of the realities of the situation in India think otherwise. If the proposed Constitution works satisfactorily the franchise may be gradually widened.

#### SIZE OF PROVINCIAL LEGISLATURE IN BENGAL.

1. The Government of Bengal's suggestion of 180 members, with maximum of 200, was made by practical administrators fully conversant with the situation in Bengal. The increase of the number to 250 under the White Paper Scheme is wholly unnecessary.

2. Sir Samuel Hoare in his answers informed the Committee the amount of saving likely to follow from the reduction of the number to 200. The bankrupt condition of Bengal is notorious, and this reduction in size of the Legislature and of the electorate will reduce expenses, which is a very material

consideration, having regard to the apprehension which is universal, that the proposed form of Government will be so expensive that after meeting the unavoidable expenses in connection with the services, their pay and pension, and the expenses of running the Legislatures nothing will be left for the beneficial activities of the Government like education and sanitation.

3. The Franchise Committee having laid down that 15% of the population must be enfranchised proceeded to find out the method by which such result can be obtained. Consequently, as against the suggestion that the qualification for franchise should be payment of taxes of one rupee, they have fixed it at six annas or approximately at payment of six pence per year.

### BENGAL FINANCES.

1. The White Paper Scheme proposes giving half of the jute export duty to Bengal.

2. This is a duty on one of the principal agricultural crops of the Province. This duty or tax prevents Bengal from getting the benefit of levying agricultural income-tax. It amounts to discriminatory treatment by disabling her from raising revenue from one of her principal resources by allocating to the Centre revenue raised from her principal agricultural crop—a state of things which will not prevail in any other Province. Every unit has the right to expect equal financial treatment under a federal Constitution.

3. If for Central solvency some part of this tax has to be temporarily taken from Bengal, provision should be made to that effect, but as revenue from agricultural crop in every Province is Provincial Revenue, the whole of the jute tax should equally be Bengal's Provincial Revenue.

4. No contention has yet been suggested, which justifies the discriminatory treatment of Bengal, by depriving her of the income raised from one of her principal agricultural crops and thus treating as Federal Revenue, what is Provincial Revenue, so far as other Provinces are concerned.

5. The previous reforms miserably failed in Bengal owing to the inequitable financial treatment accorded to her, thus

rendering it impossible for Ministers for lack of financial resources to achieve anything so far as the beneficial activities of the Government are concerned.

### BENGAL PROVINCIAL CONSTITUTION.

1. The Communal decision was rendered necessary when parties having failed to agree at the second R. T. C. the discussions were continued at the Delhi Consultative Committee in January and February, 1932, when parties failed again.

2. When at this Committee parties reported their failure, the Muslim delegates made it perfectly clear that they would challenge the decision of His Majesty's Government on its merits if it went against them.

At the meeting of 22nd February, 1932, at Delhi, Mr. Jayakar pointedly put the question—"Do the Muhammadan members want to reserve to themselves the liberty of examining the Prime Minister's decision on the merits, and then saying whether they agree or do not agree?"

Mr. Zafarulla Khan's reply was—"His Majesty's Government would in any case have to decide any question not settled by mutual agreement. That is in the nature of things. Not only the Communal question but any question on which there is no agreement, His Majesty's Government must decide. The mere fact that Mr. Jayakar has been pleased to announce that the British Government may now decide the Communal question does not carry the matter any further.

"Even if Mr. Jayakar did not agree they were bound to decide it."

Dr. Shafa'at Ahmad Khan stated—"The Muslim delegation never mentioned the word 'arbitration'. We have said all along it is for His Majesty's Government to give a decision. Of course, we never asked for arbitration."

Dr. Moonje, Sirdar Tara Singh and others also made it equally clear that there was no question of any arbitration.

To call this decision an "arbitral award", it is submitted, is wholly without justification as all parties made it perfectly clear

that they did not want arbitration and retained the right to challenge the decision on the merits.

3. Elaborate arithmetical calculations are unnecessary for showing the injustice done by the decision to Bengal Hindus.

There are altogether 250 Seats: Out of this, 51 seats represent Special interests like trade, commerce, mining, etc. Europeans are getting 31 seats because their interest in trade, commerce, etc., is very much larger than the ratio of their population. On population basis they should get a fraction of 1 seat, whereas they get 31. In the question of division of seats representing Special interests, the ratios of populations of Hindus and Muslims can have no bearing. Of the 51 seats for Special interests, 31 cannot be touched by either Hindus or Muslims. The remaining 20 Seats cannot possibly be divided on population basis, as is clear from the fact that population basis does not justify 31 seats for Europeans.

There are thus left only 199 Seats which are divisible between Hindus and Muslims. The Muslims claim that they form 54.8 per cent. of the population and the Hindus 44.8. If 199 seats are divided in these proportions, the Muslims should get 109 seats whereas they have got 119, an unjustified excess of ten seats; while the Hindus who should get 90 have been allowed 80, an unjustified reduction of ten.

It is submitted that no arguments whatsoever have yet been advanced for giving special electorates to a majority Community—the sole reason for its supposed justification being “protection of minority Communities.”

It is expected that those who are shaping the destinies of this Province will realise that under the White Paper Scheme the position in Bengal will be:—

1. 119 general Seats *PLUS* at least 7 Special seats  
for Muslims ... .. = 126
2. 30 Seats *PLUS* at least 7 Seats for Depressed  
Classes ... .. = 37
3. European and Anglo-Indian Seats ... .. = 31
4. Out of 250 seats only 56 seats will be left for Caste

Hindus in Bengal, out of which again 1 seat will be reserved for the Hill tribes.

The most influential Community in Bengal who contribute more than four-fifths of the total Provincial Revenue will have about 55 seats in a House of 250. They receive under the Communal decision about 20 per cent. of the total seats, as against 60 per cent. recommended by the Simon Commissioners.

The fact remains that the entire Hindu Community is wholly antagonised to the White Paper Scheme. But for the fact that the White Paper Scheme actually provides for it, it would have been impossible to conceive of a Legislature including a permanent majority of representatives sent in by one particular religious community. The majority do not purport to be representatives of other Communities in Bengal.

The necessity of Special electorates is attempted to be justified for protecting minorities, but in Bengal the majority Community is being provided with Special Communal electorate.

This is the negation of all principles of representative Government, and yet the whole weight of His Majesty's Government is being thrown in support of this Scheme.

It is submitted that the new Constitution will be born dead in Bengal if the legitimate grievance of the Bengal Hindus is not removed and if Parliament is not prepared to do justice to them.

The fear of the Constitution being wrecked by Bengal Hindus is groundless. If justice is done to them they will still be in considerable minority—and even as regards this minority, as past experience has shown, at least half never favoured destructive tactics. The disturbing element cannot count on forming more than between one-sixth and one-seventh of the whole House.

If it is assumed that Muslims will join hands with Bengal Hindus, then there will be no safety even under the proposed allocations, and justice should not be denied to Hindus, on a consideration which does not exist at all under this assumption.

Lastly, it is respectfully pointed out that warning was given by the Prime Minister that if the parties failed to agree His Majesty's Government would be compelled to come to a decision of a temporary nature, i.e., for a limited period.

The Communal decision purports to be for ten years but it provides that there can be no change in future, unless all parties agree to modification. This means that the unjust decision is really permanent.

The Secretary of State in answer to a question put by me could not refute this position.

The Poona Pact is now admitted by Mr. Gandhi, in articles published over his signature, to be the result of the coercion of his fast. He seems to take pride in the fact that he coerced the Government and the Hindus. This fast in fact coerced not only the Hindus but His Majesty's Government, and induced them to release Mr. Gandhi and accept the Pact within about 24 hours of its announcement.

Even after the Select Committee had started its deliberations, Mr. Gandhi once more coerced His Majesty's Government by another fast, and a person whom it was considered necessary to detain under Reg. III of 1818, is now at large, marching triumphantly all over India, with the declared object of confining himself only to the uplift of the Depressed Classes—a camouflage which is deceiving nobody.

It will be remembered that Mr. Gandhi even now is reaffirming his faith in Civil Disobedience and is publicly advocating "Individual Civil Disobedience."

No Bengal Hindus had signed the Pact.

If it were possible for the Select Committee to enquire from those who are administering the Province it could have satisfied itself that it would be difficult to get even ten decent men from the Depressed Classes in Bengal. Bengal Council with 35 or 36 members of the Depressed Classes is unthinkable to people who know Bengal.

The list of Scheduled Castes provisionally announced by the Bengal Government has "provoked several hundreds of pro-

tests"—in the words of the late Mr. Prentice, Home Member, used in answer to interpellations—and most of the Castes are objecting to be classed as backward. While the Bengal Government was required to apply the test of untouchability, with some variation if necessary, the Hon. Mr. Prentice admitted that nothing of the kind had been done.

This provision for 30 members will in no way help the four really depressed classes in Bengal, viz.—Hadis, Muchis, Chamars and Domes, but will swell the number of representatives of the two militant, well-organised and, by no means backward castes, the Namasudra and the Rajbanshi, who have for years fought successfully for seats with Caste Hindus.

To people in India it is a curious sight that these Castes claiming to be descended from the highest Castes—and Rajbanshis still using the sacred thread—should clamour for being called "backward" for gaining seats in Council. The remark of the Census Commissioner that they are hunting with the hound and running with the hare is fully justified.

It is submitted that the least that should be done in Bengal, is to reduce the Muslim seats to 109 from 119, and to declare that the Poona Pact should not be allowed to modify the Communal decision.

N. N. SIRCAR,  
*Advocate-General of Bengal, and*  
*Delegate to Joint Parliamentary*  
*Committee on India.*

36/1, ELGIN ROAD,  
 CALCUTTA,  
 January 15th, 1934.











